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ABSTRACT

Contents of these hearings include: Existing Disparties in Public School Finance and Proposals for Reform, Steven J. Weiss, a Research Report to the Federal Reserve Bank of Boston, February 1970; Tentative Proposals for a Master Tax Plan, October, 1970, The Commonwealth of Massachusetts; several volumes of the "Public Tax Newsletter," a publication of the Public Interest Research Group; the letter from Ralph Nader to Senator Edmund Muskie, August 1970, requesting a Congressional investigation of the status of the property tax; five articles reprinted from the "Gary Post-Tribune"; articles and reports concerning the property taxation of coal in Appalachia; Timber Taxation in the Company State, Mark Willis et al. Study report from the Maine Pulp and Paper Industry; "Reslicing the School Pie," an article from the "California Law Review," May 1971, by John E. Coons et al; a table concerning School Finance Cases Filed and In Process; and, A Model Complaint for use in State Courts for attack upon Wealth Discrimination in Public Education. [Several reprinted articles, published in the hearings, have not been reproduced.] (JM)

EQUAL EDUCATIONAL OPPORTUNITY—1971

HEARINGS

BEFORE THE

SELECT COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

OF THE

UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

EQUAL EDUCATIONAL OPPORTUNITY

PART 16D-2—INEQUALITY IN SCHOOL FINANCE: General Appendixes

WASHINGTON, D.C.

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SELECT COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

WALTER F. MONDALE, Minnesota, *Chairman*

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Material Supplied by the Witnesses

FROM PROFESSOR OLIVER OLDMAN

Existing Disparities in Public School Finance and Proposals for Reform

Steven J. Weiss

Research Report to the
Federal Reserve Bank of Boston
No. 46 February 1970

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EXISTING DISPARITIES IN PUBLIC SCHOOL FINANCE AND PROPOSALS FOR REFORM

By

Steven J. Weiss

Regional Economist, Federal Reserve Bank of Boston

February 1970

FEDERAL RESERVE BANK OF BOSTON

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ACKNOWLEDGMENTS

Many persons at the Federal Reserve Bank of Boston and elsewhere contributed valuable assistance and advice in the preparation of this report. Dr. Robert W. Eisenmenger, Senior Vice President and Director of Research offered encouragement from the start of the project over two years ago and substantive comments on the work at various stages. Support of the Research Department was marshalled by Walter T. Sullivan, Assistant Vice President.

Sally Long assisted in the early stages of the monumental task of data gathering; this task was completed largely through the efforts of David H. Swinton, working with Kathryn L. Holliday. The job would never have been completed without the help of many people in the various state education departments and education associations of the New England states. Mr. Swinton contributed materially to setting up the statistical analyses. Computer programming and data processing were supervised by Don Kenney, whose efforts often extended into the wee morning hours with the assistance of David Alperin and others. Miss Holliday demonstrated great expertise and patience in compiling statistics from the resultant heaps of print-out.

Valuable comments on a nearly final draft were received from Prof. John E. Coons of the Law School at the University of California, Berkeley, and Stephen D. Sugarman. My knowledgeable brother, Jonathan P. Weiss, of the Institute of Public Administration, New York, also made some useful suggestions.

Anna McGonagle typed the several drafts and many amendments with impressive speed and proficiency and somehow maintained her remarkably good spirits through it all. Heather Schofield prepared the charts, and the

comments of Mrs. Ruth Norr, Research Department editor, added clarity to the draft at some murky points. My wife, Sally, while editing elementary reading books during the day, read pieces of the drafts at night and kept me honest.

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EXISTING DISPARITIES IN PUBLIC SCHOOL FINANCE AND PROPOSALS FOR REFORM

I. INTRODUCTION

> Throughout its history this Nation has stressed education as the primary means of guaranteeing every citizen an equal chance at obtaining the rewards of an open society. If educational opportunities are unequal, then the American experiment in equality of opportunity must fail. The evidence indicates that we are indeed failing. Nor is there any strong indication that we are about to correct this failure.[1]

The goal of "equal educational opportunity" is deeply embedded in the American tradition, and few people would dispute that it is a commendable policy objective. A broad interpretation of this objective is that educational policy-makers should strive for a public school system designed "to insure that children from all groups come into adult society so equipped as to insure their full participation in this society..., to reduce the dependence of a child's opportunities on his social origins" or place of residence.[2]

In the past several years, concern about unequal educational opportunity has been aroused by studies documenting clear disparities along social class and racial lines:

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[1]Alan K. Campbell, "Inequities of School Finance," Saturday Review, Vol. LII (January 11, 1969), p. 44.

[2]James S. Coleman, "Equal Schools or Equal Students?" The Public Interest, No. 4 (Summer 1966), p. 72. As officially expressed, the goal of the Federal Government implies: "An opportunity for the best education which the Nation can offer each individual, suited to his abilities and interests and without regard to his family income, race, or place of residence" (Special Analysis J, The Budget of the United States, FY 1970, p. 117). For discussion of the concept, see Arthur E. Wise, Rich Schools, Poor Schools: The Promise of Equal Educational Opportunity (Chicago: University of Chicago Press, 1968), Ch. 8, and James S. Coleman, "The Concept of Equal Educational Opportunity," Harvard Educational Review, Vol. 38 (Winter 1968), pp. 7-22.

> Extensive sociological surveys of public schools reveal a disturbingly consistent pattern: poor children go to the most outmoded schools with the least motivated fellow classmates; they use the shabbiest facilities and are taught by the least capable teachers; they do the worst and may be looked upon by the system as incapable of doing better.[3]

Such findings are only the most dramatic symptoms of broader problems that are inherent in public school finance systems as currently operated in most states.

Educational opportunities are far from being equal today. Wide variations in the quality of public education among states, within states, and even among neighboring jurisdictions in metropolitan areas are well known. The present inequality is indicated by substantial differences in levels of per pupil expenditures.

Since school districts in most states rely heavily on local tax revenues, school expenditures are closely related to local wealth, or the size of the available tax base, as well as other factors such as the community's willingness to tax itself to pay for public education. As any property owner knows, the local property tax provides the lion's share of public school revenues in most states. This close tie between the property tax and school spending often yields strikingly inequitable results: "rich" districts are able to afford high levels of school spending at moderate tax rates while less affluent communities exert a greater tax effort and still spend less per pupil on schools. State governments intervene in the school finance system by pro-

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[3]David L. Kirp, "The Poor, the Schools, and Equal Protection," Harvard Educational Review, Vol. 38 (Fall 1968), p. 644. For documentation of disparities in educational opportunity, see James B. Conant, Slums and Suburbs (NY: McGraw-Hill Book Co., Inc., 1961); Francis Keppel, The Necessary Revolution in American Education, (NY: Harper & Row, 1966); James S. Coleman et al., Equality of Educational Opportunity (Washington: U.S.G.P.O., 1966); and U. S. Civil Rights Commission Report, Racial Isolation in the Public Schools (1967).

viding state aid in varying degrees and according to a complex variety of allocation procedures. Unfortunately, even when state school aid is intended to "equalize" local tax burdens and school spending levels, the results in practice are generally rather ineffective, and large disparities persist.

Federal aid to elementary and secondary education is focused primarily on stimulating programs to promote specific national objectives, and although the Federal contribution has increased sharply in absolute terms it remains a relatively minor factor in the total picture of public school finance.

The major purposes of this report are two-fold. The first is to document the present inequalities in public school spending levels and local tax burdens and to identify the principal reasons for the existing disparities. This will be accomplished by reference to previous studies, by critical examination of current state and Federal programs of aid to public schools, and by analysis of detailed data on the property tax base, school tax rates, and current expenditures per pupil for every community in each of the six New England states. This first part will provide the necessary groundwork for the second objective: a review and evaluation of proposals for reform of the currently inadequate systems of public school finance.

Intergovernmental Aspects of Public School Finance

The burden of providing public schools in the United States has been delegated by most states to local government units, but from the earliest history of the Nation, state legislatures, and the Federal government as well, have recognized a broad interest in promoting and supporting education.

Initially, the states narrowly viewed education "not as a right granted to the individual but as a requirement imposed upon him for the good of the state."[4] Increased Federal and state promotion of public education has been fostered by empirical research that has documented the relationship between an individual's educational attainment and his earnings, and the contribution of education to economic growth.

There is a sound theoretical justification for state and Federal aid to education. Given the high mobility, increasingly sophisticated technology and generally growing social and economic interdependence of American society, it is clear that education is of more than merely local interest. Since many of the social benefits of public education can accrue outside the local jurisdiction where schooling is provided, an individual community "may fail to undertake expenditures which would be desirable from the viewpoint of the entire society,"[5] resulting in underinvestment in education, inefficient resource allocation that can be corrected only through action by higher levels of government.[6] The practical effects of "spillovers" of benefits of public education and the costs to society of citizens with inferior training, and the necessity of corrective response by government

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[4]Wise, Rich Schools, Poor Schools, p. 117, and his discussion in Ch. 5 generally.

[5]Burton A. Weisbrod, External Benefits of Public Education: An Economic Analysis (Princeton University, Department of Economics, Industrial Relations Section, 1964), p. 4.

[6]See Wallace E. Oates, "The Theory of Public Finance in a Federal System," Canadian Journal of Economics, Vol. I (February 1968) pp. 48-54. For theoretical analysis of grant systems designed to correct for distortions of resource allocation resulting from benefit spillover effects, see George F. Break, Intergovernmental Fiscal Relations in the United States (Washington: Brookings Inst., 1967), Ch. 3; and Robert W. Rafuse, Jr., "The Efficiency of Conditional Grants-in-Aid," in Joint Economic Committee, Revenue Sharing and Its Alternatives, 90th Congr., 1st sess. (1967), Vol. II, pp. 1053-1059.

above the local level are well expressed by former Governor Terry Sanford:[7]

> It is not enough to have the finest school system in the country if the adjoining district has one of the worst. Ultimately the product of the weak district will dilute the prosperity of the more fortunate products of the excellent system. Correcting this kind of damaging inequity requires State action.

Growing political awareness of the benefits of education and rising public demand for quality schools, together with persistent cost increases, have led to sharply higher expenditures on public education by all levels of government. Total spending on public elementary and secondary schools has grown at an annual rate of 9.8 percent since 1949, compared to an annual growth rate of 6.4 percent for GNP; and state and local tax effort to pay for public education has increased by almost 50 percent in the last decade.[8] While total public school spending has been rising quite rapidly, intergovernmental aid payments for public elementary and secondary education have been growing faster than the total. At a time when state and local governments have been hard pressed to raise funds for all types of new and expanded services, a larger and larger proportion of their resources has been devoted to paying for schools. The charts in Figure I show the growth of state and local general revenues from their own sources and revenues for public schools, for the Nation and the New England states.

The Federal commitment to elementary and secondary education increased sharply after passage of the Elementary and Secondary Education Act (ESEA)

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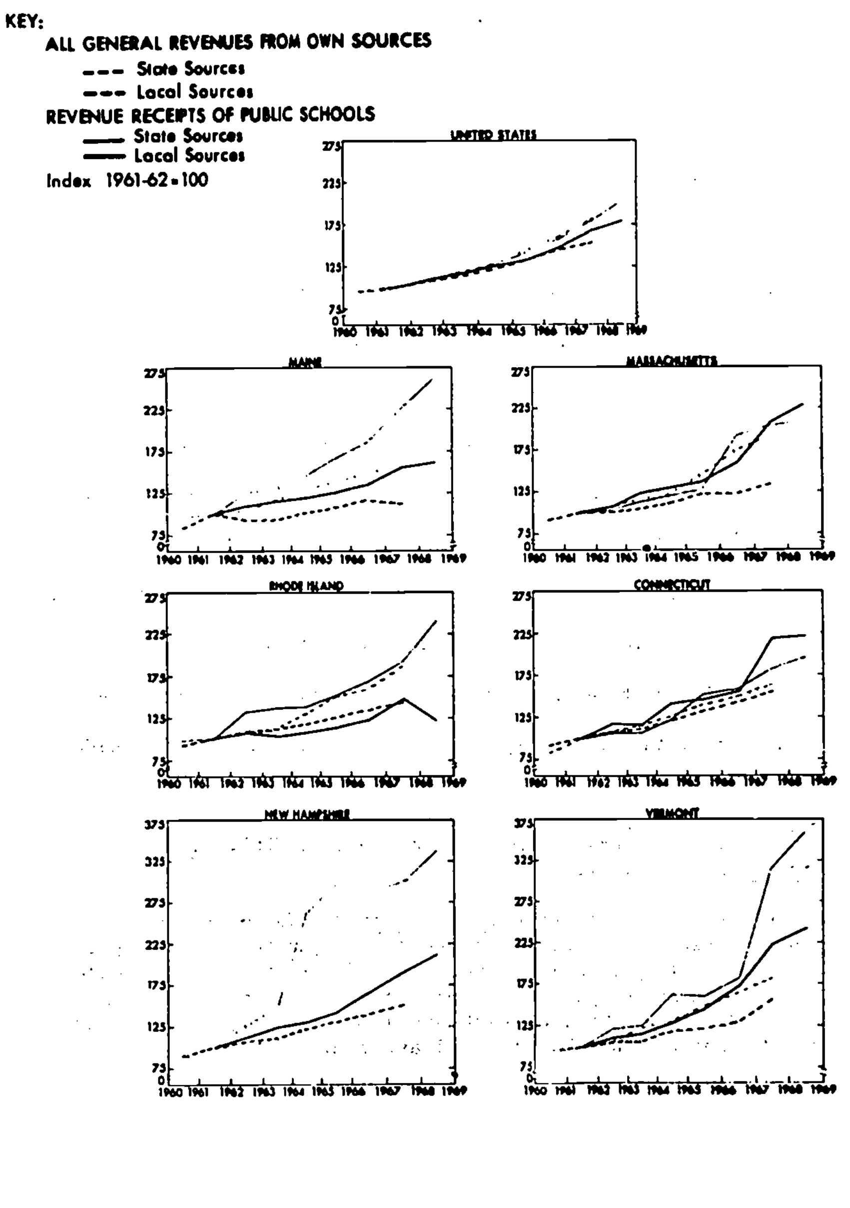
[7] But What About the People? (NY: Harper & Row, 1966), p. 157, cited in Advisory Commission on Intergovernmental Relations (ACIR), State Aid to Local Government (1969) p. 31.

[8] See data in ACIR, State Aid to Local Government, Table A-6, p. 53. Effort is measured here as the ratio of revenues for public elementary and secondary schools to state personal income. In all the New England states except Rhode Island and New Hampshire, effort increased substantially more than in the Nation as a whole between 1958 and 1968, but only Vermont was exerting an effort greater than the national average.

Figure I

RECENT TRENDS IN STATE AND LOCAL GENERAL REVENUES
AND REVENUES FOR PUBLIC SCHOOLS
United States and New England States



in 1965. The proportion of Federal education spending devoted to elementary and secondary schools doubled from about one-sixth in FY 1964 to over one-third in FY 1970.[9] Since 1965-66, however, state and local funds for public schools have grown faster than Federal support, which actually declined between 1968 and 1969. Table I, Part A, shows that despite the sharp increase in Federal aid under ESEA, the Federal contribution in public school finance is still quite small compared to the burden on state and local governments. The Table also demonstrates the important national trend toward assumption by the state governments of a larger share of the total cost of public education.

Following the national pattern, in the New England states the state share of public school finance has been growing faster than the local share (as the charts in Figure I demonstrate fairly consistently), but the local share remains consistently higher in New England than in the Nation as a whole (Table I, Part B). Furthermore, the New England states generally rely much more heavily than the Nation as a whole on local property taxes as a source of state and local government revenues (see Table II). As a result, the strain on local resources is especially severe in this region. These structural patterns suggest that disparities in school tax burdens and spending levels are likely to be greater in this region than in the Nation as a whole. The New England states, therefore, constitute a particularly fertile ground for demonstrating the potential gains from expansion or redirection of the intergovernmental role in public school finance.

Given the present severe strain on the local property tax base in many areas, it becomes apparent that intergovernmental action will be required

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[9]Special Analysis J, The Budget of the United States, FY 1970, p. 115.

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TABLE I

Sources of Finance for Public Elementary and Secondary Schools,
U. S. and New England States
(Amounts in $millions)

	Local Gov'ts		State Gov'ts		Fed'l Gov't		Total
	$Amt.	%	$Amt.	%	$Amt.	%	$Amt.
A United States, Total							
1959-60	8,327	56.5	5,768	39.1	652	4.4	14,747
1965-66	13,400	53.8	9,600	38.6	1,900	7.6	24,900
1968-69	17,544	52.0	13,728	40.7	2,453	7.3	33,725
B New England, 1968-69							
Connecticut	365.0	64.3	178.0	31.3	25.0	4.4	568.0
Maine	80.0	58.0	47.9	34.7	9.9	7.2	137.9
Massachusetts	616.0	70.7	195.0	22.4	60.0	6.9	871.0
New Hampshire	83.3	86.0	8.8	9.1	4.8	4.9	96.9
Rhode Island	72.6	58.3	43.9	35.2	8.2	6.5	124.7
Vermont	55.8	66.2	25.0	29.7	3.5	4.2	84.3
New England, Total	1,272.8	67.2	498.6	26.2	111.4	5.9	1,882.8

SOURCES: U. S. Department of Health, Education and Welfare, Office of Education, Digest of Educational Statistics, 1967, Table 70, p. 56; and National Education Association, Estimates of School Statistics 1968-69, Research Report 1968-R-16, Table 10, p. 33. (All rights reserved. Permission obtained from Mrs. Beatrice Lee, NEA).

TABLE II

Importance of Local Property Taxes in State-Local Revenue Systems, U. S. and New England States, 1966-67

	Local Property Taxes as % of:			
	State and Local Gen. Rev. from Own Sources	Total State & Local Taxes	Local Gen. Rev. From Own Sources	Total Local Taxes
Connecticut	43.7	51.5	85.3	99.4
Maine	39.7	48.0	85.5	99.0
Massachusetts	45.3	51.7	86.0	98.9
New Hampshire	50.3	60.1	86.5	98.5
Rhode Island	38.8	45.5	85.4	98.5
Vermont	31.7	37.6	86.6	97.4
United States	33.4	41.5	66.3	86.7

SOURCE: U. S. Department of Commerce, Bureau of the Census, Governmental Finances in 1966-67, Table 17, pp. 31-33, (Gov't Finance/GF 67 No. 3).

to relieve existing inequalities. Present disparities in local tax burdens and spending levels of public schools stem partly from the American tradition of vesting control and support of the schools primarily at the local level, a value judgment which is quite legitimate and has considerable merit. However, progress toward a more equitable system of public school finance has been hampered to some extent by the fear that increasing state and particularly Federal financial aid to public schools will ultimately weaken local decision-making and control. On the other hand, it can be argued that this concern is irrelevant

> because the scandalous discriminations now tolerated in public education in our society are a consequence not of too much but of too little local control. The existing financing mechanisms are not truly systems of local control; rather they are a system of naked privilege for those localities which are created by the state with superior power. Local control in the sense of entities with parity of power to perform their assigned tasks of education has never existed.[10]

Significant improvements in present public school finance arrangements could be initiated by the states, and even the Federal government, without jeopardizing local control. In fact, local options are severely limited under the present systems that closely tie school spending to the community's property tax base. As a result, many educational experts have been challenging the traditional notion that local control is dependent on substantial local financing, contending that while local control may be desirable, "it is not contingent on local support. To put it another way, control does

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[10]John E. Coons, William H. Clune III, and Stephen D. Sugarman, "Educational Opportunity: A Workable Constitutional Test for State Financial Structures," California Law Review, Vol. 57 (April 1969), p. 319. The opposing argument, viz. that equalization of per pupil spending would imply abandonment of local control, is expressed, for example, by Philip B. Kurland, "Equal Educational Opportunity, or The Limits of Constitutional Jurisprudence Undefined," in Charles U. Daly (ed.) The Quality of Inequality: Urban and Suburban Public Schools (The University of Chicago Center for Policy Study, 1968).

not necessarily follow money and local financial support for education is not necessarily essential to the maintenance of local control."[11] A truly equitable system would recognize differences in local educational needs and would enable communities to determine spending levels accordingly, without regard to fiscal capacity. "...Whether identical services are offered is irrelevant, since the goal is to provide equivalent opportunity for local development according to local needs within the decentralized structure of state responsibility."[12]

Movement toward equalization of educational opportunity and financial burdens has been stalled not by a dearth of proposals for reform but by a lack of political will. If state legislatures fail to enact substantial changes in their own school finance systems, reform may be forced in the near future through court action.[13]

[11] Kern Alexander, "The Implications of the Dimensions of Educational Need for School Financing," p. 208 in Roe L. Johns, Kern Alexander and Richard Rossmiller (eds.), Dimensions of Educational Need, National Educational Finance Project, Vol. 1 (Gainesville, Florida: 1969).

[12] Dale L. Bolton, "Some Aspects of Equalizing Educational Opportunity and Taxation Burden," National Tax Journal, Vol. XI (December 1958), p. 355.

[13] See Myron Lieberman, "Equality of Educational Opportunity," Harvard Educational Review, Vol. 29 (Summer 1959), pp. 167-83: Harold W. Horowitz and Diana L. Neitring, "Equal Protection Aspects of Inequalities in Public Education and Public Assistance Programs from Place to Place Within a State," UCLA Law Review, Vol. 15 (1968), pp. 787-816; Wise, Rich Schools, Poor Schools; Coons, Clune and Sugarman, "Educational Opportunity...," and Private Wealth and Public Education (forthcoming, 1970, Harvard University Press): and David K. Cohen, "The Economics of Inequality," Saturday Review, Vol. LII (April 19, 1969), pp. 64 ff.

II. DISPARITIES AT THE LOCAL LEVEL: WEALTH, EFFORT AND SPENDING LEVELS

Individual community statistics gathered for this study make it possible to analyze existing disparities within each of the New England states. For each of 1,384 communities, figures were derived to measure (1) local ability to support schools, (2) the effort exerted locally to support schools, and (3) the resultant quality of education provided by the local school system. Before proceeding with analysis, some comments are in order concerning the statistics employed.

(1) Equalized Valuation per Pupil is used throughout this study to measure local capacity or ability to pay for schools; the number of pupils involved is determined strictly on a resident pupil basis.[14] This measure reflects the size of the tax base available for local property taxation. Property values are expressed on a "equalized" basis within each state (i.e. some fixed ratio to full market value), but data are not necessarily comparable between states. There are inherent deficiencies in these data, particularly for certain states, and some conceptual weaknesses must be admitted as well.

First, ability to pay for schools is clearly affected by other economic factors; in particular, some measure of income is often preferred as a measure of fiscal capacity. Studies undertaken at different times and covering different geographic areas have yielded conflicting conclusions about the relative merits of income and property values as indices of local fiscal capacity and whether or not one is a reasonably good proxy for the

[14] The rationale for this and a description of other statistical concepts and sources will be found in Appendix I.

other.[15] A serious obstacle to use of an income measure in the present context is that reliable figures are not generally available for areas coterminous with school taxing jurisdictions.

The adequacy of equalized valuation per pupil as a measure of ability to pay for schools is affected by the distribution of governmental responsibilities within a particular state, and the revenue requirements to finance non-school public services in any given community. Two local districts with similar per pupil property values obviously do not have comparable abilities to pay for schools if one is saddled with a large welfare burden and the other is not.

Despite its limitations, equalized property valuation per pupil is appropriate to use here in describing existing disparities in local fiscal capacity; on purely practical grounds, in the present situation property is the tax base accessible to school boards that must raise funds locally.

(2) "Basic" School Tax Rates were calculated as measures of local effort to raise revenues for school support. In this study, the local share of public school spending was derived on a residual basis by subtracting state and Federal aid payments to the local district from total

[15] See, for example, George A. Bishop, "The Property Tax and Local Spending--A Need for Balance," New England Business Review, (December 1962), p. 3; Bishop notes a high correlation between school expenditures per pupil and resident income levels; income may serve as an index of community aspirations for education spending, or a proxy for willingness to pay. See also, H. Thomas James, J. Alan Thomas & Harold J. Dyck, Wealth, Expenditure and Decision-making for Education (Stanford University, School of Education, 1963) pp. 7-8; and R. L. Johns, "Indirect Measures of Local Ability to Support Schools," in Trends in Financing Public Education, Proceedings of the Eighth National Conference on School Finance, 1965, Committee on Educational Finance, National Education Association (subsequent references to these Committee conference proceedings will be noted as CEF/NEA Proc.).

current expenditures in basic school programs. Local effort is then expressed as the derived local contribution to expenditures divided by the tax base, equalized valuation:

$$r = \frac{L}{V} = \frac{E - S - F}{V}$$

In this formula, r = "basic" school tax rate; V = equalized valuation, and L, S, and F are the local, state and Federal government contributions to relevant public school expenditures, E, of any given district.[16]

Community aspirations for education, which affect willingness to pay for local schools, vary among communities. Higher income families generally have relatively high aspirations for their children's education. However, since local fiscal capacity is closely related to taxable wealth, a community with low property valuation per pupil may not be able to realize high spending levels even if its desire for quality schools is translated into a high local tax rate. Similarly, a low measured school tax rate may reflect local residents' unconcern about school spending, but this is by no means a necessary implication; the "basic" tax rate may be low because of purely fortuitous circumstances. For example, the community may be lucky enough to contain valuable property with few students attached (commercial and industrial land, or areas zoned restrictively for low-density housing), or it may have a high proportion of families sending their children to private schools. In fact, a low local effort may support excellent schools; unfortunately, the obverse situation is also true.

(3) <u>Current Expenditures per Pupil</u> is the measure employed in this study as a rough proxy for quality of a school district's educational product. Non-current expenditures and expenditures on functions that are

[16]For details on what expenditures are included, see Appendix I.

ancillary to the basic educational program are deliberately excluded. For a number of reasons, this measure must be interpreted cautiously as an indicator of educational quality.

First, school costs tend to vary inversely with size of the district or size of the individual school. Thus, in someinstances, high expenditures may partly reflect inefficiency of small units.[17] Cost differences may also reflect regional variations in salary levels or input prices without any bearing on the quality of the output.

There is an extensive literature on "the cost-quality relationship" in public education, and educators have generally concluded that money does matter for all that it can buy in terms of goods and better professional services.[18] In addition, it obviously costs more to effectively educate some students than others. The Coleman Report and other studies raised doubts about the effectiveness of resource inputs in overcoming cultural, sociological and psychological barriers to educational achievement, and the debate about whether more money will produce better schools is reverberating

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[17] Walter Hettich, "Equalization Grants, Minimum Standards, and Unit Cost Differences in Education," Yale Economic Essays, Vol. 8 (Fall 1968); Nels W. Hanson, "Economies of Scale as a Cost Factor in Financing Public Schools," National Tax Journal (March 1962); and Francis G. Cornell, "Cost Differentials and District Size in State School Aid," in The Challenge of Change in School Finance, CEF/NEA Proc., 1967.

[18] J. K. Norton, Does Better Education Cost More? (CEF/NEA, 1959); Austin D. Swanson, "The Cost-Quality Relationship," The Challenge of Change in School Finance, pp. 151-64; and the review by Betty Buford, Statement before the General Subcommittee on Education of the House Education and Labor Committee, November 12, 1969, pertaining to H.R. 10833 (NEA release).

in many halls of the social sciences.[19] While this broad question of educational policy is unresolved, the present problems in public school finance are no less serious: it is still inequitable that equal tax effort can yield vastly unequal results in per pupil expenditure outcome. Therefore, critics of present public school finance systems are "unwilling to postpone reform while we await the hoped for refinements in methodology which will settle the issue.... If money is inadequate to improve education, the residents of poor districts should at least have an equal opportunity to be disappointed by its failure."[20]

Quantitative Dimensions of Disparities

Some statistical measures of intra-state variation in equalized valuation per pupil, "basic" school tax rates, and current expenditures per pupil are presented in Table III. The coefficients of variation provide a measure of the relative within-state variation, and these coefficients can legitimately be compared across states; however, interstate comparisons based on

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[19]The Coleman Report, Equality of Educational Opportunity, and Kenneth Clark, Dark Ghetto (NY: Harper & Row, 1965) raised the issue of critical non-resource factors; examples of critiques of the Coleman Report are Samuel Bowles and Henry M. Levin, "The Determinants of Scholastic Achievement--An Appraisal of Some Recent Evidence," Journal of Human Resources, Vol. 3 (Winter 1968), pp. 3-24; Henry S. Dyer, "School Factors and Equal Educational Opportunity," Harvard Educational Review, Vol. 38 (Winter 1968), pp. 38-56; and Christopher Jencks, "A Reappraisal of the Most Controversial Educational Document of Our Time," New York Times Magazine, (August 10, 1969), Pt. I, pp. 12 ff.

[20]Coons, Clune and Sugarman, Private Wealth and Public Education, Introduction.

TABLE III

STATISTICAL MEASURES OF EXISTING
DISPARITIES IN PUBLIC SCHOOL FINANCE,
NEW ENGLAND STATES

	Maine	Mass.	Vermont	N. H.	R. I.	Conn.
A. Equalized Valuation per Pupil: ($ thous.)						
10th Percentile Level	3.6	15.5	16.0	13.7	23.1	19.3
Median	7.8	22.3	25.9	22.6	28.9	29.5
90th Percentile Level	25.6	45.2	57.4	56.2	42.5	46.8
Mean	12.2	28.8	33.6	29.3	33.1	32.2
Coefficient of Variation	107	94	75	69	52	38
B. "Basic" School Tax Rate (Mills)						
10th Percentile Level	16.8	13.2	6.8	10.2	7.3	9.9
Median	28.9	22.4	12.3	18.8	11.8	14.0
90th Percentile Level	47.8	30.6	18.1	25.5	14.2	20.8
Mean	30.8	21.9	12.2	18.6	11.4	14.7
Coefficient of Variation	44	31	39	44	28	31
C. Current Expenditures per Pupil ($):						
10th Percentile Level	320	547	471	417	499	511
Median	394	666	568	509	564	631
90th Percentile Level	555	858	689	679	670	801
Mean	428	684	577	534	574	640
Coefficient of Variation	18	21	16	21	13	16

the other data in the Table are not necessarily meaningful.[21]

The data reveal clearly that large intra-state disparities exist in local wealth, school tax effort and levels of school spending. The differences between the lowest and highest individual district values, which are not given in the Table, are quite extreme in some cases.[22] The most extreme variation appears in equalized valuation per pupil--the measure of local ability to pay for schools. Variation in tax rates is also quite high, and it is least severe in spending levels. This is, of course, as would be expected, since state school aid distributions and other factors tend to compensate partially for local wealth disparities. Even so, tax rates and spending results vary over a wide range. This is illustrated in the graphs in Figure II, which depict the frequency distributions of school tax rstes and per pupil expenditures in Maine, where there is considerable variation and in Rhode Island, where variation is <u>least</u>.

The disparities in local wealth are particularly important insofar as they affect variation in tax effort and school spending at the local level, <u>i.e</u>. as long as they are not offset by state intervention. Previous studies of public school finance hsve concluded that wealth is the most important

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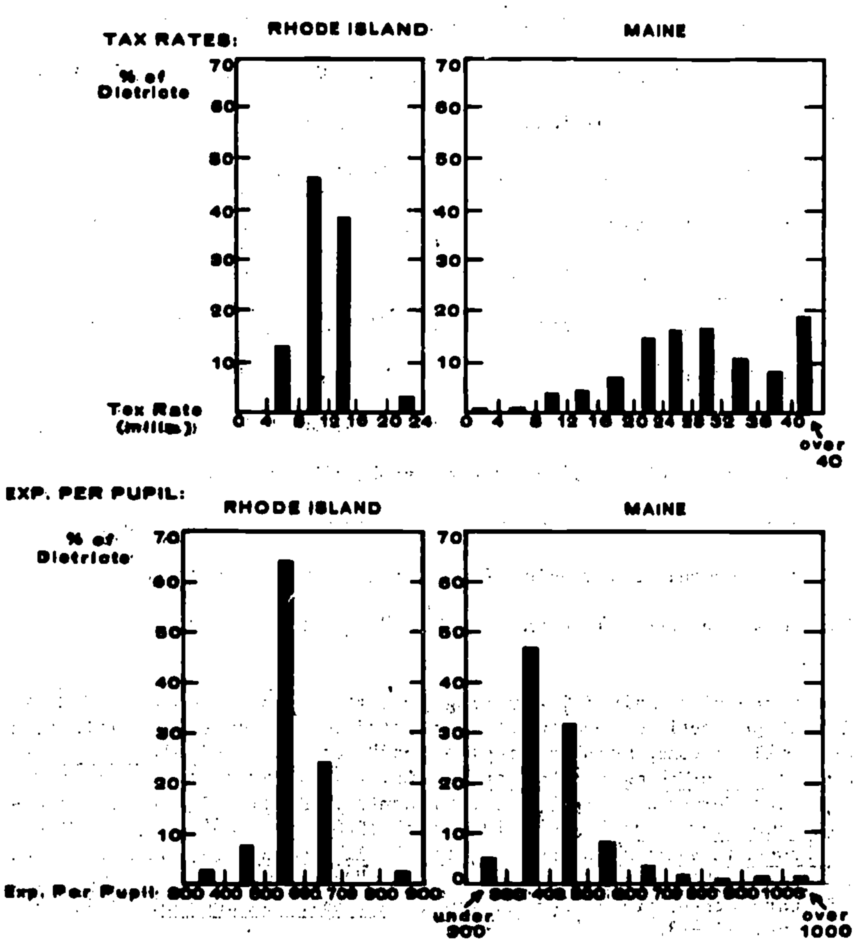
[21]The coefficient of variation is simply the ratio of the standard deviation to the mean, multiplied by 100. The other statistics presented in the Table cannot be compared across states for several reasons: inconsistencies in state determination of equalized valuation, as noted above; differences in accounting procedures used to derive expenditure figures; and differences in the years for which most recent data were available from the respective states.

[22]A small number of districts whose data yielded "freakish" results were dropped from the calculation of descriptive statistics and from calculations described below in connection with the analysis of proposals for reform.

Figure II

FREQUENCY DISTRIBUTIONS OF "BASIC" SCHOOL TAX RATES
AND CURRENT EXPENDITURES PER PUPIL,
MAINE AND RHODE ISLAND



single factor affecting expenditures for education;[23] the evidence from this study supports this conclusion. Simple correlations between the variables are given in Table IV. There is a consistent positive relationship between equalized valuation per pupil and current expenditures per pupil, and a strong inverse correlation between equalized valuation per pupil and "basic" school tax rates. Scatter diagrams indicated an apparent curvilinear relation between district wealth (V/P) and tax rates. One curvilinear form, relating V/P and the reciprocal of the tax rate (1/r), was tested and proved highly significant. The existing disparities in local school tax effort and spending levels quite clearly are attributable to an important degree to the heavy reliance on the local property tax in these states. In general, the highest tax rates do not yield the highest levels of spending for education. In fact, no significant relationship exists between these measures.

The persistent influence of local property values on school tax rates and expenditures per pupil is illustrated graphically in Figure III. The charts show a consistent pattern of increasing spending levels at decreasing tax rates across communities ranging from the group with the lowest per pupil valuations (Quintile I) to the "richest" (Quintile V).[24]

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[23]In a regression analysis, covering 10 states, James, Thomas and Dyck concluded that per pupil expenditures is related to both equalized valuation and median family income, holding "aspirations" constant. (Wealth, Expenditures, and Decision-Making for Education, Ch. 4.) Other examples of studies in this area are Werner Z. Hirsch, "Determinants of Public Education Expenditures," National Tax Journal, Vol. 13 (March 1960), pp. 24-40; Jerry Miner, Social and Economic Factors in Spending for Public Schools (Syracuse: Syracuse University Press, 1963); and George A. Bishop, "Stimulative Versus Substitutive Effects of State School Aid in New England," National Tax Journal, Vol. 17 (June 1964), pp. 133-43.

[24]The Rhode Island deviations from the general pattern apparently reflect the small size of the quintile groups. There are only 39 districts in the state. The present pattern should be different since beginning in 1968-69 the capacity measure was adjusted to include income as well as property value.

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TABLE IV

CORRELATIONS BETWEEN EQUALIZED VALUATION PER PUPIL (V/P), "BASIC" SCHOOL TAX RATE (r), AND CURRENT EXPENDITURES PER PUPIL (e), NEW ENGLAND STATES

	Simple correlation coefficients:			
	(V/P, e)	(V/P, r)	(V/P, 1/r)	(e, r)
Connecticut	+.54	-.68	+.75	+.10
Maine	+.54	-.58	+.81	-.06
Massachusetts	+.56	-.60	+.82	+.04
New Hampshire	+.57	-.69	+.88	+.00
Rhode Island	+.55	-.56	+.73	+.10
Vermont	+.40	-.56	+.71	+.11

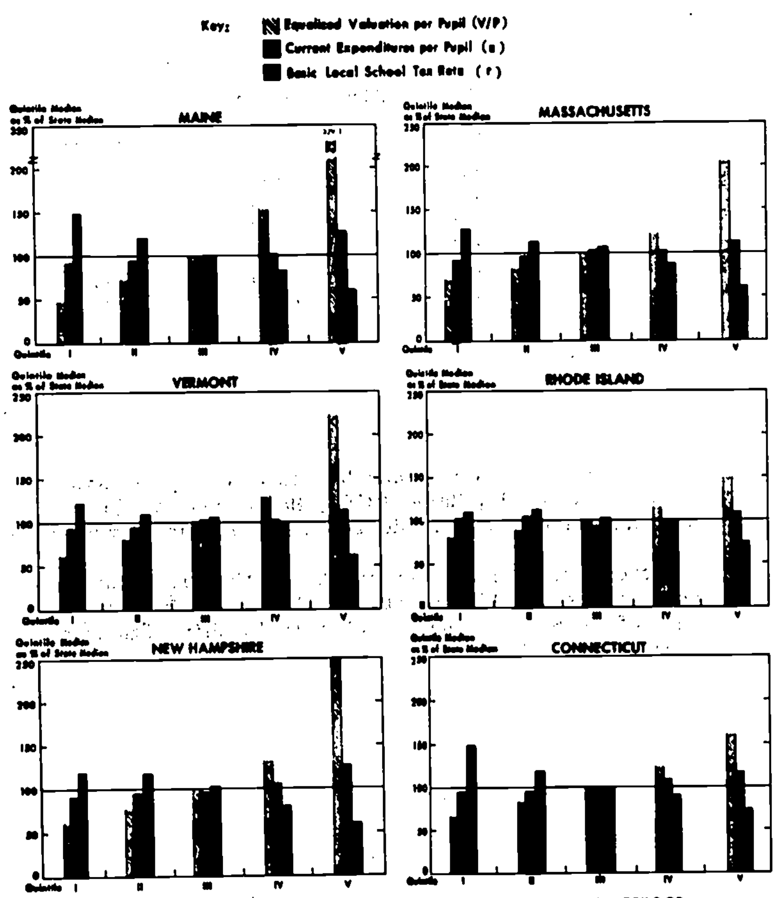
NOTES:

(1) The numbers of observations by state are as follows: Connecticut (169), Maine (330), Massachusetts (349), New Hampshire (234), Rhode Island (39), and Vermont (249).

(2) All the correlation coefficients in the first three columns are significant at the 1% level. Only in the case of Vermont is the (e, r) relationship significant even at the 10% level.

Figure III

PATTERN OF DISPARITIES IN EQUALIZED VALUATION PER PUPIL, CURRENT EXPENDITURES PER PUPIL, AND BASIC LOCAL SCHOOL TAX RATES, NEW ENGLAND STATES
(Median Values of Quintiles According to Valuation per Pupil Relative to State Median)



NOTE: THE CHARTS ARE BASED ON MEDIAN VALUES OF QUINTILES ACCORDING TO VALUATION PER PUPIL RELATIVE TO THE STATE MEDIAN.

In contrast to this present situation, an equitable system of public school finance would reward a community in proportion to its own effort to provide good schools, thus breaking the tie between local wealth and educational offering, the tie by which the present system binds some communities to inferior schools while capriciously rewarding others with educational excellence relatively painlessly achieved. Who could defend a state system where, for example, two districts have the same school tax rates but one provides three times the per pupil spending as the other, or, two districts spend the same amount per pupil but one levies school taxes at seven times the rate of the other? These are actual cases drawn from the data collected for this study. They are extreme examples, but they illustrate a pervasive pattern of inequitable disparities that affect individual localities in each state. The next sections will examine important features of existing school finance systems with a view toward discovering steps that might be taken in the direction of meaningful reform.

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III. THE LOCAL PROPERTY TAX

Any review of existing public school finance must begin with an examination of the local property tax. The property tax is the residual source of funds for local government services in every state, and public schools are the major single claimant on its revenue yield. The property tax is one of the oldest, most pervasive, and probably one of the most disliked of American taxes. It was the largest single tax source in the U. S. for most of the country's history; in the past several decades, however, its importance in the Nation's tax structure has declined gradually, and there has been much debate over the future of the property tax. Over the years, many critics have predicted the eventual demise of property taxation. In 1956, one expert delivered a prospective funeral oration:

> ...Over the next two decades, I would expect to see the property tax all but wither away. Relative decline is a foregone conclusion, but I would go beyond this and predict that in absolute terms the property tax is headed for oblivion... [In twenty years] the property tax will...have become an all-but-forgotten relic of an earlier fiscal age.[25]

While there is considerable regional variation in the burden of property taxes, as measured by effective rates, an important question is recurrently discussed: how high can property tax rates go before reaching a possible absolute limit of feasibility?

> With respect to economic limitations in property taxation, there is undoubtedly a breaking point, above which property taxes cannot go. But this point varies with respect to taxpayers' locations, timing, competing economic opportunities, and in other ways. There is no universally accepted limit.... There are places where the rate could probably be increased without serious difficulty...but in many areas--particularly in the large central cities—the tax

[25]George W. Mitchell, "Is This Where We Came In?", National Tax Association (NTA), Proceedings (1965), pp. 492, 494.

may already have been pushed to, or beyond, the limits of feasibility.[26]

As the fiscal workhorse of local governments the tax has shown no signs of departing to the glue factory; in fact, with substantial growth in property values and continued increases in rates, it has shown remarkable revenue productivity. However, rumblings of a "tax revolt" and recent high voter rejection rates of local school-bond issues suggest that there is no reason to be sanguine about continued heavy reliance of school budgets on revenue from the property tax as it is now constituted. There are many ways in which the property tax and its administration could be improved, particularly through action by state governments. Theoretical objections to the property tax, in terms of its allocative and distributive effects and on other grounds, have led many tax experts to recommend that state and local tax structures be shifted away from the property tax and toward other types of taxation.[27]

A recent study showed that there is no general correlation between effective property tax rates and a state's total tax effort.[28] This suggests that in states where school finance is especially closely tied to local property taxation there is considerable potential for improving public school finance procedures by developing alternative revenue sources and strengthening or revamping the property tax itself.

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[26]Mabel Walker, "Limitations of the Property Tax," NTA Proceedings (1963), pp. 409-10; for a discussion of regional and intraregional differences in effective rates, see Dick Netzer, Economics of the Property Tax (Wash.: Brookings Inst., 1966), Ch. V.

[27]See ACIR, The Role of the States in Strengthening the Property Tax, Vol. I (1963) for proposed reforms within the systems. A comprehensive economic analysis and evaluation of the tax is presented in Netzer, Economics of the Property Tax. For general discussion of the tax, see Tax Institute of America, The Property Tax: Problems and Potentials (Princeton: 1967), and Richard W. Lindholm (ed.) Property Taxation--USA (Madison: University of Wisconsin Press, 1967).

[28]ACIR, Measures of State and Local Fiscal Capacity and Tax Effort (1962), p. 123.

IV. THE IMPACT OF STATE SCHOOL AID PROGRAMS

Even though public schools are locally run and the brunt of the financial burden falls on local government units in most states, school districts remain creatures of the states, and, legally, education remains essentially a state function and responsibility. Three "general and settled principles" have been clearly established:

> The state has plenary power with respect to taxation for schools. School taxes, whether collected by the state or the localities, are state taxes. The state retains discretionary power over the method of distribution of school funds.[29]

To date, only a handful of state governments have intervened in the financing of public schools to a really substantial degree.

State school aid programs vary widely in design and effect. The programs generally reflect several broad objectives. Many programs are designed to insure some minimum level of educational provision at reasonable "equalized" levels of local effort, reflecting a desire to relieve excessive local property tax burdens by injecting funds raised through more broadly based state tax sources. Another common objective of state school aid is to stimulate local education expenditures, for specific purposes or in general. There are inherent conflicts among these objectives, for example between equalization and stimulation of local spending levels. The conflict between the objective of stimulating local expenditures and the goal of property tax

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[29] Wise, Rich Schools, Poor Schools, p. 104. Wise notes that "the state itself may collect school taxes, or it may authorize school districts to collect taxes in its behalf... School districts are in fact an agency of the state... Therefore it is a misnomer to designate funds applied by the state as aid to the district." A court in Oklahoma suggested (in 1924) "designating funds raised locally as aid to the state" (pp. 105, 106).

relief has received much empirical study, with somewhat inconsistent results.[30]

The principal concern here is the impact that state school aid programs have on disparities in local school tax effort and current expenditures per pupil. Over the years, state governments have been moving generally in the direction of increased and more explicit emphasis on "equalization" in their school aid allocation; but local effort and spending levels are still closely related to local wealth. The following discussion gives some reasons why and notes the sharp contrast between "equalizing" school aid in theory and practice. As a working definition, state aid is considered "equalizing" to the extent that it reduces the impact of local wealth differentials on educational results in terms of per pupil spending.[31] The extent to which the state's contribution to public school finance actually has an equalizing effect depends both on the amount of state money budgeted and on the manner in which it is distributed.

[30] Edward F. Renshaw, "A Note on the Expenditure Effect of State Aid to Education," Journal of Political Economy, Vol. LXVIII (April 1960), pp. 170-74, concluded that considerable substitution of state for local funds takes place, rather than net expenditure stimulation. Bishop, "Stimulation Versus Substitution Effects...," reached a similar conclusion, though he noted that the effectiveness of incentive programs appears to vary by type of community. George B. Pidot, Jr., "A Principal Components Analysis of the Determinants of Local Government Fiscal Patterns," Review of Economics and Statistics, Vol. LI (May 1969), pp. 176-88, found significant stimulation effects in state aid for education and other functions. A debate on this issue--but one focusing primarily on the relation between Federal aid and state-local spending--has been raging in the National Tax Journal recently; cf. articles and comments by Morss (March 1966), Osman (December 1966, December 1968), Pogue and Sgontz (June 1968), and Oates (June 1968).

[31] Coons, Clune and Sugarman, "Educational Opportunity...," p. 313. In Private Wealth & Public Education, Ch. 3, Coons, Clune & Sugarman develop and apply a lucid model for analysis of actual state systems according to equalizing, non-equalizing and anti-equalizing effects.

Methods of Allocating State School Aid[32]

If the state desires to guarantee a certain basic level of education for all school children and to minimize differences in local tax rates required for its support, then the allocation formula for state school aid must reflect differences in relative needs and fiscal capacity at the local level. A program designed to stimulate total education spending at the local level will also take the factor of effort into account, rewarding increased local support with additional state funds. Increasingly sophisticated methods of distributing aid funds have been advocated through the years, in keeping with growing awareness of existing problems and specificity of policy objectives, but actual practice has lagged seriously behind theoretical advances.

Flat Grants, consisting of fixed payments on some unit basis (e.g. per pupil, per teacher or per school district) were the earliest popular form of state school aid. Even with refinements to reflect differences in district need, such as paying larger amounts for secondary than for elementary school pupils, this method of allocation clearly discriminates in favor of wealthier districts, which can raise local funds more easily than their less affluent counterparts to support expenditures in excess of the flat grant level. All

[32] Alternative procedures for distributing intergovernmental aid have been widely discussed. See, for example, Francis G. Cornell, "Grant-in-Aid Apportionment Formulas," Journal of the American Statistical Association, Vol. XLII (March 1947), pp. 92-104; Richard A. Musgrave, "Approaches to a Fiscal Theory of Political Federalism," in NBER, Public Finances: Needs, Sources and Utilization (Princeton: Princeton University Press, 1961), pp. 97-122. One of Musgrave's models was adapted and applied to the case of state school aid by Ronald F. Hoffman, "A Systematic Approach to a Practicable Plan for State Aid to Local Governments," Public Finance/Finances Publiques, Vol. XXIV, No. 1 (1969), pp. 1-28. For discussion of state school aid programs in practice, see Charles S. Benson, The Economics of Public Education (Boston: Houghton-Mifflin Co., 1961), Chs. 6 & 7; Robert J. Garvue, Modern Public School Finances (NY: Macmillan, 1969), Ch. 9; and especially the penetrating comprehensive analysis in Coons, Clune and Sugarman, Private Wealth and Public Education, Chs. 1-5.

that can be said in favor of the flat grant procedure is that it results in some lessening in the disparity of local tax effort, compared to a system of local support only.[33]

In practice, flat grants are ordinarily combined with categorical aid programs in support of specific functions. Categorical aid also discriminates in favor of the more affluent recipients if it is distributed on a unit basis by fixed-ratio matching of state and local funds. A state program of this type has no equalizing effects since it does not take account of relative ability to raise funds locally. Unless the total level of state support is quite high, large disparities in local effort and spending levels are inevitable.

"Foundation" plans are the most common forms of state school support today. A foundation plan essentially guarantees some minimum level of public school support for all districts, distributing state funds in a manner that explicitly compensates for disparities in local ability and takes into account differences in local needs. In its most rudimentary form, the foundation plan works as follows: (1) The state sets a target level of expenditures per pupil, e*; and (2) a minimum school tax rate, r*, that each locality must levy in order to qualify for foundation aid; and (3) state funds are distributed according to a formula such as the following, which assures that every district imposing school taxes at the mandatory rate will be able to spend at least the target amount per pupil:

$$S_i = e^*P_i - r^*V_i,$$

[33] How much lessening will depend on the relative levels of state and local contributions to the system. If the state tax structure is progressive, poor districts would gain indirectly in the overall taxation-expenditure system even if the state uses only flat grants.

where S_i, P_i and V_i are the amount of state foundation aid received, the number of pupils, and the equalized valuation, respectively, of a given district. Thus, for example, if the state sets the foundation support level at $400 per pupil and the mandated local tax rate at 10 mills, every district that levies school taxes at a rate of 10 mills or more is assured of at least $400 per pupil in expenditures; whatever amount the district fails to raise locally at the 10 mill rate the state will make up in foundation aid. However, any spending in excess of the foundation level must be financed out of local revenues raised on an unequalized basis.

In practice, most state foundation plans are more complicated than this simple example. The complexities arise from alternative specifications of the measures of local need (P_i) and ability (V_i). Many states have built elaborate "weighting" factors into their foundation plan formulas in order to reflect cost differences related to district or school size, grade level composition, population density, number of classroom units, number and qualifications of teachers, salary schedules, etc.[34] Some states have modified their measure of local ability by employing a weighted index of property values and income.[35] Even in its most refined form, however, the

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[34]See, for example, Albert R. Munse, "Weighting Factors in State Foundation Programs," in Trends in Financing Public Education, pp. 56-62; Eugene P. McLoone, "Evaluating the Weighting Factors in Use," in Ibid., pp. 63-79; and Cornell, "Cost Differentials and District Size in State School Aid."

[35]Other states still base foundation aid payments on unequalized assessed valuations, thereby inspiring competitive underassessment by local assessors. When equalized valuation is employed, serious inequities can result if the data are not kept current; e.g. until several years ago, the Massachusetts plan distributed aid on the basis of 1945 valuations, a fact that gave great advantage to rapidly growing suburban areas. Similarly, Florida now employs an index of capacity which combines such figures as sales tax returns, employment, value of farm products, automobile registrations, and railroad and utility property, but still uses 1953 data.

foundation plan has serious deficiencies.

First, foundation support levels are often woefully inadequate, in many cases well below the spending levels that most districts support voluntarily, and state legislatures frequently fail to revise support levels upward in pace with rising costs. When the foundation level is unrealistically low, as is commonly the case, districts with relatively low fiscal capacity must still exert a disproportionately heavy local effort in order to provide an adequate educational program. The foundation support level is a sensitive political question, determined largely by expediency. All too often it is merely an "index of the largesse of the particular state government, not the job to be done."[36] One critic argues that the simple foundation plan approach to equalization exists in present "bureaucratic wonderlands" as a crude "substitute for knowledge about the budgetary needs" of schools.[37]

Second, the formula implies the possibility of negative aid (i.e. payments by the local district to the state) in cases where a rich district raises more than the foundation support amount by taxing itself at (or below) the mandated local tax rate. Since such redistribution is usually politically unpalatable, programs are generally designed to eliminate the possibility, either by adjusting the parameters of the formula or putting constraints on the outcomes. Negative payments are effected in only one state (Utah), and only to a minor extent. Some states guarantee a minimum payment to every district regardless of the formula results. When this is

[36] Coons, Clune and Sugarman, Private Wealth and Public Education, Ch. 2.

[37] H. Thomas James, "Interdependence in School Finance: The City, The State, and The Nation," in Interdependence in School Finance: The City, The State, The Nation (CEF/NEA, 1968), p. 14.

done, the program operates with an implicit flat grant component which has no equalizing effect.

Third, state foundation programs often exist in combination with explicit flat grants paid to every district. In this case, the flat grant component of the overall state school aid program can actually have an anti-equalizing effect, favoring the richer districts.[38] In general, the total equalizing effect of a state's school aid budget can be seriously diluted if only part of the money is allocated on an "equalized" basis. State foundation plans are completely equalizing in effect only when the wealthiest district (1) taxes itself at the mandated local rate (r*); (2) spends no more than the foundation support amount (e*); and (3) receives no aid from the state.

Percentage Equalization Grants, alternatively called equalized percentage matching grants, represent the latest word in state school support techniques. Under a percentage equalization scheme, the attempt to support education at some basic unit cost level is abandoned in favor of a more flexible approach that effectively offers individual districts greater financial incentive and control and at the same time provides full equalization at any level of spending, rather than just at an arbitrary foundation level based on state-designated needs. This approach involves a formula, such as the one below, which determines for each district the percentage of public school expenditures that will be paid for by the state. This percentage, usually designated the "state aid ratio," varies inversely with relative local wealth:

[38] For a lucid demonstration of this point, see Coons, Clune and Sugarman, Private Wealth and Public Education, Ch. 3.

$$\text{State Aid Ratio} = (\%S)_i = (1 - \text{wealth ratio for district i})$$
$$= \left[1 - \left(\frac{\text{Capacity, district i}}{\text{Capacity, key district}}\right)\right].$$

If the wealth ratio is determined with respect to the <u>richest</u> district (according to whatever capacity measure the state employs), then the plan eliminates the wealth (ability) factor entirely as a determinant of district spending levels: the same local effort will generate the same expenditure level regardless of disparities in local wealth.

This method of aid allocation can be substituted for any existing combination of foundation plus categorical aid programs. A desirable simplification in administration can be achieved by such consolidation of programs. More importantly, greater overall equalization would result since many categorical programs have non-equalizing or anti-equalizing effects, as noted above.

The very admirable "pure" theoretical form of the percentage equalization method is, unfortunately, not realized in practice. To facilitate discussion by policy-makers, the plan is typically set up in a modified form: the state decides to pay some proportion of the school budget of the district of "average" wealth, and this "average" district becomes the "key" district in defining the wealth ratio in the formula. With these changes, the state aid ratio for any given district is determined as follows:

$$\text{State Aid Ratio} = (\%S)_i = \left[1 - \left(\frac{\text{Capacity, District i}}{\text{Capacity, "Avr." Dist.}}\right) Q\right],$$

where Q equals the proportion of its school budget that the "average" district must finance out of its own funds, <u>i.e.</u> the state decides to pay the proportion (1 - Q) of the budget incurred by the district of "average" wealth (where, of course, the "wealth ratio" in this formulation would be

unity).

It is possible, in this modified version, to select Q in such a way that aid payments will still be fully equalizing, as in the pure model.[39] However, the expected state share of statewide public school expenditures under such a program might be so large that the "pure" form becomes politically infeasible. One cause of resistance to unadulterated percentage equalization is the fear that relatively poor districts will stage a raid on the state treasury; "It has been demonstrated, however, that this is not likely under normal conditions."[40] Unless the modified formula is set up properly, negative aid payments will be required to retain the perfect equalization implied by the "pure" form; again, this is politically unlikely in practice.

In implementing the percentage equalization model, states have typically imposed constraints that substantially reduce the actual equalizing effects of the plan in practice. Among the devices that effectively impede equalization are constraints such as the following: (1) a guaranteed minimum state aid ratio, yielding some aid even for the wealthiest districts; (2) a ceiling level on the state aid ratio, preventing full equalization for less affluent districts; (3) a dollar maximum program level that the state will subsidize in each district; (4) limitations on the types of spending that the state will support; (5) state guarantees of minimum payments to all districts, with respect either to some absolute dollar figure or to aid re-

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[39]See Ibid., Ch. 5.

[40]L. L. Ecker-Racz and E. McLoone, "The State Role in Financing Public Schools," Education Digest, Vol. 34 (December 1968), p. 7.

ceived in a previous year (a "save harmless" clause); (6) prorating state funds when the state government fails to budget the full amount of aid that the formula implies; and (7) refusal to require negative payments when the formula requires them. Subject to modifications such as these, percentage equalization plans in practice hardly do any better in terms of equalizing effects than foundation plans. In implementation, the excellent theoretical plan is usually "adorned...with devastating refinements" to such a degree that it is reduced to merely "a labyrinth of false promises";[41] this result is generally quite intentional, reflecting political unwillingness to legislate a truly equalizing program.

Intention vs. Effect: State School Aid in New England

A review of the school aid programs in the six New England states provides some illuminating examples of problems that can be encountered in various types of state support programs. The data reported above (e.g. Table IV and Figure III) indicate that in none of the six states has state aid eliminated the inequitable dependence of school spending levels on local wealth. The results for the six states are fairly similar despite considerable variety in the state aid systems. Table V reveals differences in the relative magnitudes of the state commitments to supporting current expenditure programs and differences in the structures of the overall state school aid programs, as well as some indication of the proportion of state aid funds that are intended

[41]Coons, Clune and Sugarman, "Educational Opportunity...," p. 316

Table V

GENERAL CHARACTERISTICS OF STATE SCHOOL AID PROGRAMS, NEW ENGLAND STATES

	State Aid as % of Total Non-Fed'l Support of Current Exps.	Number of Separate Types of St. School Aid	% Distribution of State School Aid by Category: Basic Program	Capital or Debt Service	Other
Connecticut	29%	13	74%	12%	14%
Maine	30%	17	81% *	9% *	10%
Massachusetts	19%	6	67% *	15% *	18%
New Hampshire	9%	11	56% *	29%	14%
Rhode Island	32%	4	83% *	10% *	7%
Vermont	35%	5	82% *	12%	5%

* Indicates that some degree of equalization is attempted in the allocation method.

Sources: Thomas L. Johns (compiler and ed.), Public School Finance Programs, 1968-69, U. S. Dept. of HEW, Office of Education (Washington:1969), OE-22002-69 (for all but first column), and data collected by the Federal Reserve Bank of Boston.

to be distributed in an equalizing manner.[42]

Every state except Connecticut makes some attempt to achieve equalizing effects in its method of allocating funds for support of the basic program of current expenditures. Connecticut's basic program aid consists of a system of flat grants allocated essentially on a per pupil basis, with no equalizing effects. It is apparent, therefore, that the relatively low variation in school tax effort and spending levels in Connecticut is a fortuitous result of comparatively small inter-district wealth disparities rather than state action (cf. Table III). In the Connecticut allocation, a bonus is given to smaller districts. This is done presumably to compensate for diseconomies of small scale, but the procedure is open to objection on the grounds that inequalities may be aggravated in specific cases, and district consolidation in the interest of efficiency may be discouraged. Four of the New England states include in their state school aid programs some kind of incentive for consolidation of small districts.

New Hampshire, Vermont and Maine all have variations of the foundation plan. The level of foundation support is quite low in New Hampshire--e.g. only $300 per high school student as compared with $406 in Maine and $743 in Vermont--a reflection of the state's extremely low commitment to basic program aid.

Maine is one of three New England states that distributes capital

[42]Intent is determined here on the basis of program descriptions. See Thomas L. Johns (compiler and ed.), Public School Finance Programs, 1968-69, U. S. Department of Health, Education and Welfare, Office of Education (Wash.: 1969), OE-22002-69. It must be emphasized again that labels and intent are not necessarily translated into equalizing effects, as the results show.

assistance funds in an equalizing manner. The state pays anywhere from 18 to 66 per cent of construction costs, the proportion for any particular district varying in relation to equalized valuation per pupil.[43] The equalizing effect of this aid program is not reflected directly in the data used in this study, but it is obviously important to individual districts. Other things being the same, equalizing features in capital and debt service aid programs should contribute to overall equalization effects in the total school aid program.

The "Other" types of aid programs are generally categorical grants designed to aid specific functions, such as pupil transportation, education of handicapped students, vocational education, and other activities including (in Connecticut and Rhode Island) programs for disadvantaged children. These programs, in effect, make some adjustment for cost differences beyond the basic program, but the funds involved are not distributed on an equalized basis, and an opportunity for enhancing equalization in the total state school aid is therefore lost.[44]

The basic programs for current expenditures in Massachusetts and Rhode Island are of particular interest because they are both adaptations of the theoretically preferred percentage equalizing model. The Massachusetts allocation procedure is a grotesque example of a labyrinthian system that

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[43]By contrast, the "equalizing" feature of Massachusetts' capital aid involves variation only within the narrow range of 40-50%, depending on equalized valuation per pupil.

[44]In Massachusetts the state pays all transportation costs in excess of $5 per pupil; the program, which has undoubtedly stimulated spending for transportation, comprises almost 8½% of total school aid paid by the state. While there is some merit in state subsidies to assist necessary functions, there is no reason why the subsidy cannot be provided on a variable matching basis to reflect ability to pay.

almost defies comprehension, not to mention concise description.[45] The program embodies a good number of the defects listed above that can reduce the equalization effects of an otherwise excellent model as the political process implements a drastically constrained version. In the Massachusetts case, the equalization potential is reduced at the outset because only a limited portion of expenditures from local revenues are eligible for reimbursement. Several additional adjustments are made on "reimbursable expenditures," and a minimum state aid ratio of 15 percent is guaranteed to all districts.[46] The resultant "entitlement" is subject to two further modifications, and then the final figure is ultimately prorated to satisfy the constraint imposed by the state budget.

The Rhode Island formula is considerably less complex, but it too has serious weaknesses compared to the "pure" percentage equalization model. The procedure is open-ended (i.e., no ceiling is imposed on the amount of spending that the state will aid), but the equalizing effect of the state assistance is seriously diluted by a guarantee that the state will pay at least 30% of the costs incurred by any district, even the richest. Districts with "true" aid ratios under 30% can gain more funds at any level of effort, and the open-ended feature makes it possible for them to exploit this advantage to any desired spending level. Note that the pure form of the percentage

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[45]See the comprehensive analysis by Andre Daniere, Cost Benefit Analysis of General Purpose State School-Aid Formulas in Massachusetts (Massachusetts Advisory Council on Education, 1969).

[46]Daniere indicates that the unconstrained formula yields state aid ratios under 15% for almost one-fourth of the localities in the state, and two-thirds of these would get a *negative* aid ratio in an unconstrained system.

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equalization model implies (i) no relation between local wealth and spending, and (ii) a strong, positive relation between effort and spending. By contrast, in the two New England states where school aid is distributed on the basis of modified percentage equalization formulas, neither of these relationships appears; instead, spending is closely related to local property values per pupil, and greater tax effort generally does not result in higher spending levels.[47]

The net impact of a total state school aid package on the overall distribution of state funds among districts is difficult to predict because of the number of interacting relationships and the combination of different programs involved. The following are simple correlation coefficients between equalized valuation per pupil (V/P) and state aid per pupil in support of current expenditures (S/P):

Connecticut	.00	New Hampshire	-.51
Maine	-.34	Rhode Island	-.08
Massachusetts	+.04	Vermont	-.52

A significantly equalizing state system would produce a strong inverse correlation between these variables. As would be expected, Connecticut's flat grant system yields no equalizing effects by this test. State school aid in Rhode Island has some very weak equalizing effects. The Massachusetts program actually has a tendency to yield perverse results--a positive re-

[47]See the correlation coefficients for Massachusetts and Rhode Island in Table IV.

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lationship between ability and state aid per pupil.[48] Beginning this year, however, the results in Massachusetts should be improved because of a legislative decision to fully fund the state school aid formula, implying an increase of about 17 percent in the school aid budget. (The increase will be financed largely by shifting funds from the non-equalizing general state aid program.)

Equalizing effects appear strongest in Vermont and New Hampshire. In New Hampshire, only a small state aid fund is distributed, but it is distributed in a strongly equalizing way; if the program ·· ere fully funded, it could have very significant effects. The true test, however, is in the final relationships between wealth, effort and spending levels that have been reported earlier in Table IV and Figure III. The results suggest that among the New England states Vermont's plan, with a relatively high state contribution focused primarily in a foundation program with high support levels, does about the "best" job in reducing the dependence of spending levels on local wealth; however, effort is still closely tied to local wealth, and increased local effort does not bring significant positive returns in higher spending levels. Rating the different state programs on the basis of equalizing effects is complicated by the fact that intra-state

[48] A similar test in ACIR, State Aid to Local Government, p. 48, yielded a similar positive relationship for the overall Massachusetts school aid program (i.e., including capital as well as current programs). Joel S. Weinberg, in a report recommending a percentage equalizing plan for Massachusetts in 1962, estimated that a properly implemented "pure" plan would yield a correlation between per pupil aid and ability of -.97, but that inclusion of a "save harmless" clause and minimum and maximum constraints on state support levels would reduce the correlation to -.47. State Aid to Education in Massachusetts (New England School Development Council, 1962), p. 42. Apparently such modifications can have a very damaging effect!

wealth disparities are relatively much greater in some states (cf. figures for Maine and Connecticut in Table III.) Nevertheless, it appears that a new program soon to be introduced in Maine promises to have greater equalizing effects than any system presently existing in the region.[49]

The charts in Figure IV show that, with few exceptions, regardless of the allocation pattern of state aid per pupil in relation to local wealth in the different states, expenditure levels are still primarily related to local ability to raise revenues. The simple correlation between per pupil current expenditures and local funds is lowest in Rhode Island and Vermont, at +.60 and +.76, respectively; in the other states the relation is stronger, with correlation coefficients ranging from +.89 (Maine) to +.96 (Connecticut). This will remain true as long as the states resist assumption of a meaningful commitment to equalization or local contributions comprise the major portion of total school expenditures.

Analysis of Hypothetical Equalizing State Aid Systems

What would happen if state legislatures decided to reform their school aid programs in order to make possible effective equalization of public school spending levels and corresponding local school tax rates? This section presents the results of calculations based on models of school aid systems that could yield these results. Actual New England data are used as the basis for analyzing two types of systems which, if applied in "pure" form, could eliminate intra-state disparities in local school tax effort

[49]Under the new plan basic program aid will vary from \$4 to \$411 per pupil in inverse relation to equalized valuation per pupil, and supplementary state aid for special needs will be provided also on a strongly equalizing basis, with the state share ranging from 13% to 97%.

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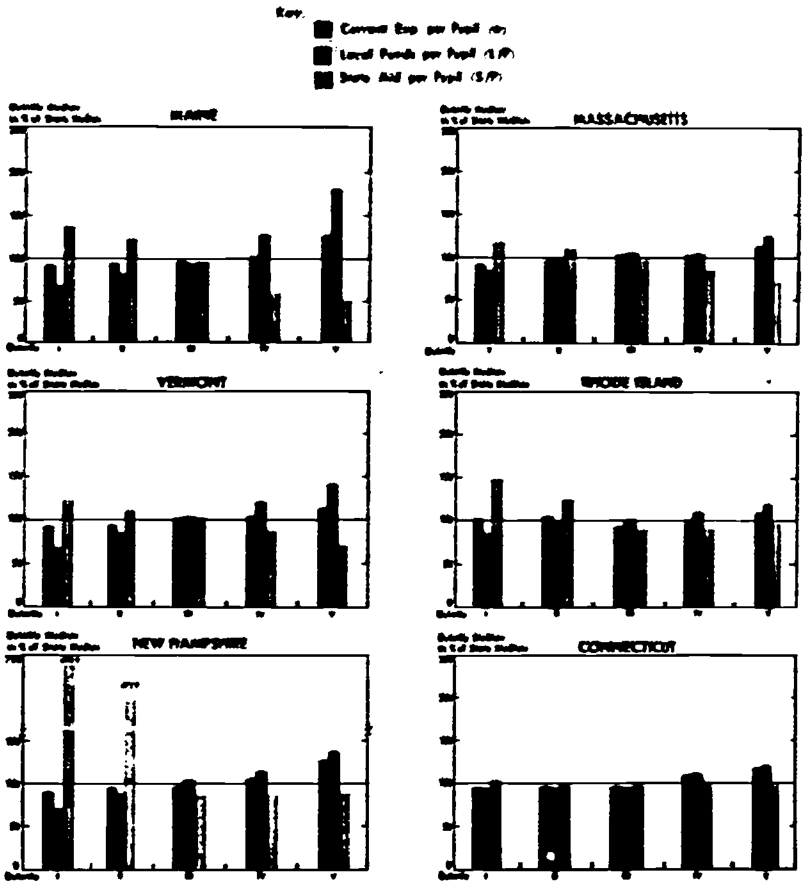
Figure IV

PATTERN OF CURRENT EXPENDITURES PER PUPIL (e)
RELATED TO PER PUPIL FUNDS FROM LOCAL SOURCES (L/P) AND
FROM STATE AID (S/P), NEW ENGLAND STATES
(Median Values of Quintiles According to Valuation per Pupil Relative to State Median)



NOTE: THE CHARTS ARE BASED ON MEDIAN VALUES OF QUINTILES ACCORDING TO VALUATION PER PUPIL RELATIVE TO THE STATE MEDIAN.

and levels of current expenditures per pupil: (1) percentage equalization grants;[50] and (2) a state-wide property tax. The results of these systems are analyzed in the context of "pure" systems keyed to alternative policy targets. Results were also obtained for the same systems operating under a variety of constraints that are likely to be found in the real world, such as budgetary constraints on state school aid, political decisions to guarantee some aid to every jurisdiction, and legislative inhibitions against requiring negative aid payments by wealthy districts (redistribution).

Several limitations of the specific procedures utilized here must be admitted at the outset. First, the calculations are based on state objectives of equalizing current expenditures per pupil at some given level (denoted as e*).[51] Unless the state provides equalized aid up to a level of e* that no district would choose to exceed voluntarily, the actual expenditures of some districts might be higher than the equalized level, and such voluntary "excess" spending would not be attained on an equalized basis. On the other hand, some districts might prefer a low school tax rate and choose to spend less than the equalized amount per pupil. In short, the calculation procedure neglects the substitution and stimulation effects of increased or

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[50]It must be emphasized at the outset, as discussed below, that the form of percentage equalization plan considered in this section is a special case since it is keyed to a particular spending level. The more general percentage equalization approach provides fully equalizing aid at any spending level.

[51]In the present context, i.e., analyzing equalizing aid up to a specific expenditure level, these two models can be set up so that they are interchangeable in practical effect. The different forms are used because they represent distinct actual or proposed systems and because each offers specific advantages in reflecting policy objectives and constraints. For an algebraic formulation of the models analyzed here, see Appendix II. In all the following calculations, Federal aid is neglected.

redirected state aid.[52] The assumption that districts will spend at the equalized level is adequate for the present purposes of analyzing the effects of a hypothetical program for effective equalization. An important point to remember when interpreting the results is that if the target spending level is too low, inequities will creep back into the system unless the state is committed to full equalization beyond as well as up to the target level.

The procedure is crude to the extent that it does not incorporate any attempt to compensate for differences in spending requirements among districts. No attempt is made to adjust the allocations for such factors as grade-level composition, number of disadvantaged children, etc.; the target is to equalize a single level of spending per pupil. Similarly, no refinement in the measure of ability to pay was attempted; equalized valuation per pupil was used throughout. These limitations are not so serious as they may appear at first. For one thing, specialists are not agreed on exactly how adjustments in the formula should properly be made. Failure to refine the hypothetical systems should not seriously affect comparisons among them or between them and the existing systems.

The fact that the models analyzed here focus on the objective of strict equalization of local spending levels and school tax effort should not be construed as an espousal of those particular criteria for public school finance systems. The calculations are intended merely for illustrative

[52]See references cited in footnote 30 and James, Thomas and Dyck, Wealth, Expenditures, and Decision-Making for Education, Chs. 2, 5. It is possible to perform simulations that do take account of these effects, by assuming some uniform response by districts to changes in state aid. See Daniere, Cost Benefit Analysis of General Purpose State School-Aid Formulas in Massachusetts.

purposes. Indeed, as the discussion, below, of proposals for reform makes clear, an equitable system can tolerate--even encourage--local differences in levels of spending and effort, but just so long as such differences are voluntary and not the result of wealth disparities.

Model I: STATE-WIDE PROPERTY TAX[53]

Current school expenditures could be financed through the proceeds of a state-wide property tax, with a uniform tax rate (r^*) set at the level necessary to finance a policy-determined level of current expenditures per pupil (e^*). The required tax rate would vary directly with the target level of e^* established by the state. This plan requires payment to the state of excess property tax collections by districts that generate (at the uniform tax rate) more than the amount needed to finance the target program for their resident pupils. This excess revenue would be redistributed by the state to districts that fail to raise the required money at the uniform rate. The program could be financed entirely through local taxation. Some results of this program are illustrated in Table VI for New Hampshire. Figures are shown for values of e^* equal to the present median, 80th per-

[53]Cornell, "Grant-in-Aid Apportionment Formulas," analyzes various models using the criteria of attaining a minimum service level (e^*) with uniform effort (r^*) for all jurisdictions. Adopting similar criteria, Hoffman, "A Systematic Approach to a Practicable Plan for State Aid to Local Governments," shows that under certain assumptions a plan similar to the model described here (or Model II, below) yields a social welfare optimum. Musgrave, "Approaches to a Fiscal Theory of Political Federalism," examines comparable plans and alternatives in a consistent analytical framework.

Table VI

STATE-WIDE PROPERTY TAX, 100% LOCAL FINANCING, NEW HAMPSHIRE

	Target Expenditure Level (e*)		
	Median	80th %ile	"Max."
Value of e* ($)	509	611	891
Mean ($e^* - e_i$)	-25*	+77	+357
Median ($e^* - e_i$)	N.A.	+102	+382
Uniform Tax Rate (r*) (mills)	19.9	23.9	34.8
Mean ($r^* - r_i$)	+1.3	+5.3	+14.7
Median ($r^* - r_i$)	+1.1	+5.1	+14.4
% of Districts with Excess Revenues	42%	42%	42%

Notes:
* In all six states, the median e_i is less than the mean.
N.A. = not applicable.

centile and "maximum"[54] levels of current expenditures per pupil in the state. Some measures of the equalization effects are provided by the mean and median changes in individual district current expenditures per pupil ($e^* - e_i$) and school tax rates $(r^* - r_i)$[55] and by the proportion of districts making payments to the state for redistribution (% of districts with excess revenues).

Since this system is entirely locally financed, substantial tax rate increases would be needed to boost spending to relatively high levels.[56] Of course, increases would be extremely large for the wealthiest districts which now enjoy very low rates, and present high-taxing localities would experience rate reductions.

The state may alternatively choose to focus on equalizing school tax rates at a particular level and then redistribute state-wide property tax revenues to finance whatever spending level is possible at the tax rate target. For example, if all New Hampshire localities were required to exert a tax effort at the present 80th percentile rate level (23.1 mills), current expenditures per pupil of $590, about 15 percent above the present median level, could be financed on an equalized basis entirely out of local funds.

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[54]The "maximum" levels specified in the calculations are not necessarily actual maxima in all cases, because "freak" cases were dropped. Similarly, the "richest" district specified in subsequent models is not necessarily the one with an actual maximum per pupil valuation.

[55]e_i and r_i represent actual present current expenditure per pupil and school tax rate figures for individual districts.

[56]The necessary increases are somewhat overstated since Federal funds are included in determining target levels but are excluded in determining the required tax rate.

Model II: STATE-WIDE PROPERTY TAX PLUS FIXED STATE AID

A system closer to the real world needs and actual conditions would require state funds to supplement the revenue yielded by a uniform school tax rate. It could operate essentially in the same way that Model I does, except that state money would be added to the excess local tax collections used for redistribution. The state could again set a target in terms of either spending levels or tax rates, and the other would be determined.

Table VII shows some results for programs of this type in Massachusetts. The calculations were made assuming a policy objective of equalizing current expenditures per pupil (out of state and local funds) at the present 80th percentile level. In order to evaluate the effect of an increase in state equalizing aid, results are compared assuming state funds are contributed in amounts (i) equal to existing school aid for current purposes,[57] and (ii) twice that amount. The table shows that doubling state aid and focusing the total amount in an equalization program would yield higher equalized spending levels at a lower tax effort for most districts. Of political interest, perhaps, is the fact that one sure way for the state to lessen required inter-district redistribution of funds is to enlarge its own contribution.

If, alternatively, Massachusetts maintained its present aid commitment, channeled the entire amount into equalizing basic program support, and adopted a policy of requiring a uniform tax rate at the present 80th percentile level of effort, the median increase in district per pupil expenditures would be $161, and spending would be equalized at $827, with 24 percent of the districts paying money into the state. The additional funds to

[57]Existing school aid for current purposes according to the data gathered for this study.

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Table VII

STATE-WIDE PROPERTY TAX PLUS STATE FUNDS, MASSACHUSETTS

	Amount of State Funds	
	(i) Existing Level ($130 million)	(ii) Twice Existing Level ($260 million)
Target e* at 80th Percentile Level	769	769
Mean $(e^* - e_i)$	+75	+75
Median $(e^* - e_i)$	+103	+103
Uniform Tax Rate (r*)	25.6	20.6
Mean $(r^* - r_i)$	+3.7	-1.3
Median $(r^* - r_i)$	+3.3	-1.7
% of Districts with Excess Revenues	24%	15%

support this program would come from local sources, primarily from relatively affluent districts required to increase their tax effort substantially above current levels. At the other end of the present spectrum, the least affluent jurisdictions would be able to increase per pupil expenditures far beyond what they could achieve under the existing system even by taxing themselves at very high rates.

Results for other states are similar: present disparities in school tax effort and spending per pupil can be relieved by a program of straightforward equalization, as long as the state commits itself to this objective by increasing its own contribution, or requiring redistribution of funds, or both.

The redistribution feature can be quite crucial. Suppose that the state decides upon an equalization program of the Model II form but is reluctant to require redistributive transfers. It may attempt to get around this political problem as follows. It can set the uniform tax rate at a level that would provide the wealthiest district with sufficient funds, but no more, to finance its own program at the target expenditure level. No redistribution will be required, since not even the wealthiest district has excess revenues. Applying this approach in Massachusetts, and assuming a target $e^* = 769$ as in Table VII, the uniform tax rate would be set at 2 mills, less than one-tenth of the present state average (the "richest" district has a per pupil equalized valuation over 100 times as large as the state average). Since the uniform tax rate is set so low to avoid redistribution, the required local contribution will fall drastically, implying a correspondingly huge increase in state funds. In this case, the state would have to increase its aid fund by a factor of 5.8 to $755.7 million, or else abandon or redesign

the plan. It would no doubt select one of the latter alternatives.[58]

It is not uncommon that a state equalization plan looks fine on paper, only to be spoiled in practice because of a state budget constraint that forces prorating of available funds. The calculations summarized in Table VIII indicate the range of effects that prorating can have on an otherwise well designed equalization system. For each of the New England states, the required state contribution for a fully funded program to equalize current spending per pupil at the 80th percentile level was calculated, along with the implied uniform tax rate. The state contribution was reduced proportionately (in total and across districts) to a level approximating the actual state school aid budget. Receiving less state aid than the fully equalizing amount, districts react by adjusting their own tax effort and spending. In the most likely event, unless the state imposes effort or spending requirements in spite of prorating, tax rates and spending levels will diverge from the intended state targets. The possible results are analyzed in Table VIII by considering the effects under two extreme assumptions about district responses: (A) the target e* is maintained, causing full adjustment by changes in tax rates; (B) the uniform tax rate target, r*, is maintained, and adjustment comes entirely through per pupil expenditure changes. The state might decide to enforce either result; otherwise, the final position of the individual districts will lie somewhere between the two extreme cases, with neither equalization target attained. In any event,

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[58] The Massachusetts case is extreme, owing to the disproportionately high valuations per pupil of the "richest" district. The comparison would be still more extreme in New Hampshire. For the other states, the ratio of state costs in a similar program (e* = 80th percentile level, r* set so as to avoid redistribution) to costs in the unconstrained version (where redistribution is accepted, as in Table VII) are as follows: Connecticut--2.3; Maine--4.4; New Hampshire--12.4; Rhode Island--2.7; Vermont--2.9.

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TABLE VIII

EFFECTS OF PRORATING EQUALIZATION FUNDS
(Model II Plan, with e* = 80th Percentile; r* = Median)

	Connecticut	Maine	Massachusetts	New Hampshire	Rhode Island	Vermont
Target e* ($)	714	490	769	611	613	646
Uniform r* (mills)	14.0	28.6	22.3	18.8	11.7	12.0
% of Districts with Excess Revenues	6%	14%	18%	26%	8%	12%
State Aid Required for Full Funding ($ million)	141.8	42.9	216.6	17.1	37.5	30.2
Actual State Aid ($ million)	115.0	22.7	130.0	5.3	26.5	18.5
Prorating Factor	0.81	0.53	0.60	0.31	0.71	0.61
Case A = Full Adjustment by Change in Tax Rate ($e_i^* = e^*$)						
Mean (Actual r_i')	16.1	48.4	27.0	25.3	14.4	17.3
Median (Actual r_i')	16.0	44.8	27.2	24.4	14.5	17.1
Average % Deviation of Actual r_i' from r*	+15%	+69%	+21%	+34%	+27%	+44%
Case B = Full Adjustment by Change in Spending ($r_i^* = r^*$)						
Mean (Actual e_i')	664	424	717	569	548	551
Median (Actual e_i')	657	364	660	483	533	515
Average % Deviation of Actual e_i' from e*	-7%	-13%	-7%	-7%	-10%	-14%

inequalities are reintroduced.[59]

Model III: PERCENTAGE EQUALIZATION WITHOUT REDISTRIBUTION

The percentage equalization model tested here is not the "pure" form discussed earlier because rather than being open-ended it represents a method for financing a specific level of per pupil expenditures. As in the unconstrained versions of the previous models, target levels of e* and r* are co-determined and are perfectly equalized for all districts.

In order for the percentage equalization method to work without entailing any inter-district redistribution, the state must be prepared to pay for a fully equalizing system out of its own tax resources. Aid will be paid to all but the "richest" district. When wealth disparities are substantial, this requires a very substantial state commitment.

Figures in Table IX, based on a target e* at the 80th percentile level, show the results of Model III in Maine (where wealth disparities are very substantial) and Connecticut (where wealth disparities are significantly less).[60] In Connecticut, state aid would have to more than double, and in Maine a more than four-fold increase would be required. As state funds replace local revenues in a completely equalizing manner, local tax rates plummet, and the state assumes a large share of the burden of financing the target spending level.

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[59]If the state were sincerely dedicated to equalization at some level, it could explicitly concede its budgetary shortfall and reset its sights on a different target--equalization of a lower level of spending.

[60]*Cf*. Table III.

Table IX

PERCENTAGE EQUALIZATION, MAINE AND CONNECTICUT

	MAINE			CONNECTICUT		
		Model IV			Model IV	
	Model III	Q = .50	Q = .75	Model III	Q = .50	Q = .75
Target e* at 80th Percentile Level	490	490	490	714	714	714
Present State Aid for Current Expenses (S) ($ million)	22.7	22.7	22.7	115.0	115.0	115.0
State Aid Required for Program (S*) ($ million)	98.4	53.3	26.3	266.2	221.0	110.5
% Change in (S)	+333%	+135%	+12%	+127%	+93%	-4%
Median State Aid Ratio (State Share of Program)	.94	.62	.44	.66	.58	.36
Local Tax Rate, r*	3.9	23.6	35.5	8.2	10.3	15.5
Mean ($r^* - r_i$)	-26.9	-7.2	+4.6	-6.5	-4.4	+0.8
Median ($r^* - r_i$)	-25.0	-5.2	+6.6	-5.8	-3.7	+1.4
% of Districts with Excess Revenues	0	14%	24%	0	2%	11%

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Model IV: PERCENTAGE EQUALIZATION, WITH REDISTRIBUTION

As noted above, implementation of percentage equalization systems is usually based on an objective expressed in terms of the state reimbursing some set proportion of the expenditures of a district with "average" wealth. The formula's wealth ratio is defined with respect to the "average" district, and the state finances a proportion (1 - Q) of this district's budget. Unless certain conditions pertaining to the intra-state distribution of wealth in relation to the chosen value of Q are met, inter-district redistribution of funds will be required in order to preserve the fully equalizing property of the original formulation.[61]

Table IX includes the results of applying Model IV with two values of Q (Q = .50, Q = .75, implying, respectively, that the "average" district must pay 50%, 75% of its budget for the target program) to Maine and Connecticut, with the same equalized spending level used to illustrate Model III. In this formulation, where wealth ratios are defined with respect to the "average" district, the total state share in the program is effectively reduced, and quite sharply. This model, compared to Model III, causes a substitution of local for state funds. The required local tax rate rises, and wealthier districts must pay over "excess" revenues to the state for redistribution. As Q—the share of program expenditures that the "average" district must pay—is increased, a higher local effort is required of all districts and the state relies more heavily on inter-district transfers, rather than its own revenues, to finance the program.

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[61]In order for no redistribution to be required, Q must be selected so that the maximum wealth ratio is no greater than 1/Q. See Coons, Clune and Sugarman, Private Wealth and Public Education, Ch. 5.

The figures in Table X, which are directly comparable with the column in Table IX for Q = .75, illustrate the types of changes that can result from political constraints being introduced into a percentage equalization scheme. The three specific constraints analyzed are: (1) no redistribution tolerated—the state aid ratio (%S) is constrained to non-negative values ($\%S \geq 0$); (2) guaranteed minimum state aid ratio—no district receives less than a 20% subsidy from the state for its target program ($\%S \geq 0.2$); (3) maximum permissible state aid ratio—no district, no matter how poor, receives more than an 80% subsidy in the plan—($\%S \geq 0.8$). The impact of these constraints can be gauged roughly by comparing the respective results in Tables IX and X.

The prohibition of inter-district redistribution has the expected effect of increasing the required state contribution; this occurs because the state must replace the funds that the wealthiest districts are no longer required to pay in. For the same reason, variation in the required local tax rate (r_f^*) reappears: again, the benefit accrues to wealthy districts that can finance the target program at a relatively low tax rate. The same effects appear when a floor is placed under the state share, and, of course, the magnitudes of the changes are greater, and more districts are protected by the system—protected in the sense that their lower "true" state aid ratios are not effective. The maximum state share constraint has minimal effect in the specific case tested. Under percentage equalization plans of the Model III type, this form of constraint would have more marked effects. The burden of the constraint would be borne by the least affluent districts, which would not receive the full equalization benefit that an unconstrained version of the plan would require.

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Table X

CONSTRAINED PERCENTAGE EQUALIZATION,
MAINE & CONNECTICUT

(Constraints on State Aid Ratio [%S] in Model IV, Q = .75)

Constraints	MAINE No Redis-tribution (%S ≥ 0)	MAINE Minimum State Share (%S ≥ 0.2)	MAINE Maximum State Share (%S ≤ 0.8)	CONNECTICUT No Redis-tribution (%S ≥ 0)	CONNECTICUT Minimum State Share (%S ≥ 0.2)	CONNECTICUT Maximum State Share (%S ≤ 0.8)
Target e* at 80th Percentile Level	490	490	490	714	714	714
State Aid Required for Program ($ million)	34.3	40.2	26.3	123.9	147.6	110.5
Required Local Tax Rate (r_i*)						
Mean (r_i*)	32.0	30.7	35.6	15.2	14.6	15.5
Median (r_i*)	35.5	35.5	35.5	15.5	15.5	15.5
% of Districts Affected by Constraint	24%	33%	2%	11%	30%	1%

V. THE FEDERAL ROLE IN PUBLIC SCHOOL FINANCE

Almost every state has accepted equalization of educational spending and tax burdens as a goal of its public school finance system. This stated objective is clear even though programs to implement it have generally failed miserably in terms of practical effects. The objectives of Federal aid to public schools are quite different. To the limited extent that equalization is a goal, the concern is for equalization between states. In design, intention, and methods of allocating funds, Federal grant programs have almost nothing to do with ameliorating intra-state disparities.

Most Federal grants for public schools are designed to stimulate spending for specific policy objectives or to assist in meeting particular needs at the district level. "The existing arsenal of many-sized, heterogeneous aids, diverse in purpose and structural detail, is clearly not a system tied together by any central purpose more specific than serving the pragmatic and changing needs of a Federal partnership...."[62] In the present context, it is especially important to note that Federal grants for public schools are not designed in any consistent way to relieve or compensate for disparities in ability to pay for schools:

> ...Equalization is necessarily a secondary and, in some respects, an irrelevant criterion when applied to operating results of the complex of existing programs....
>
> ...The focus of existing grants, insofar as there is a common focus, is on service standards, not personal incomes....
>
> ...Identification of states as rich or poor, high-income or low-income, and evaluation of their aggregate shares of

[62] I. M. Labovitz, "Federal Assistance to State and Local Governments," in Tax Institute of America, Federal-State-Local Fiscal Relationships (Princeton, 1968), pp. 29-30.

Federal aid on this basis, may omit factors that are crucial for policy assessments....[63]

Federal aid to public schools is channeled through a wide variety of programs administered by numerous different Federal departments and agencies. In all but a few programs the funds are paid to the states, which then distribute their allotments to individual districts or to programs operated by the state education departments. Every program has a number of "strings" attached. In order to qualify for Federal aid money, state and local governments must satisfy specific conditions written into the law, and the states usually must contribute funds from their own sources according to matching requirements that vary from program to program. Under any particular grant program, the distribution of funds among the states depends upon whether (and how) measures of needs, capacity and effort enter the allocation procedure, as well as the nature of whatever strings may be attached. A brief review of the major Federal aid programs applicable to public schools will illustrate the differences in purposes and allocation procedures.

(1) Elementary and Secondary Education Activities. Most Federal assistance under this heading comes under provisions of the Elementary and Secondary Education Act (ESEA) and the National Defense Education Act (NDEA). The major part of ESEA is Title I, under which payments are intended to support programs concentrating on meeting the special needs of educationally deprived children. Grants are dispersed according to numbers of pupils from low-income families and state average spending levels, on terms that give some extra assistance to poor states and that provide incentives for increasing current expenditures per pupil. The most important section of NDEA, (Title III), provides funds to subsidize development of curricula in par-

[63]*Ibid.*, p. 29.

ticular subject areas; grants are allocated partly in inverse proportion to the state average income per school age child. Although these provisions of ESEA-I and NDEA-III are designed to yield some equalizing effects with respect to income, other grant programs under this heading reflect only limited Congressional intent to distribute funds on an equalizing basis, or none at all.

(2) Maintenance and Operation of Schools in Federally Affected Areas. Federal money distributed under this program (P.L. 874) is intended to assist local education agencies in areas where Federal acquisition of property has reduced local revenue potential and where education must be provided for "Federally-connected" pupils--i.e., primarily in towns hosting defense installations or other government facilities. The allocations are unrelated to local wealth but are designed to compensate for the tax exemption of Federal property. About fourteen states offset part of Federal funds under P.L. 874 in calculating state equalizing aid for the affected districts, a procedure that implicitly capitalizes the Federal payments to represent the value of exempt property.[64]

(3) Vocational Education Assistance. Some of the earliest Federal programs of aid to public schools were designed to encourage development of vocational education activities. These typically provide minimum flat

[64] ACIR, State Aid to Local Government, p. 39. School districts' state aid allotments are adjusted for P.L. 874 receipts in every New England state except Connecticut and New Hampshire. In 1968 a Federal court enjoined the Virginia practice of deducting half of a district's P.L. 874 funds from the state aid allotment to which it is otherwise entitled. See E. E. Reutter, Jr., "The Legal Element in School Finance," in Interdependence in School Finance..., p. 57.

grants for state programs in specific occupational categories, or allotments distributed according to certain population or employment characteristics, in either case with no regard to the state's fiscal capacity. The Vocational Education Act of 1963 introduced desirable reforms by relaxing categorical restrictions embedded in earlier programs and allocating additional funds on the basis of population by age group and inversely to per capita income.

(4) School Lunch and School Milk Programs. Federal funds are allocated according to schools' participation in the subsidized lunch and milk programs. The states must pay a fixed 75% of the costs unless state income per capita is below the national average; the Federal government may also provide special assistance to schools located in poor economic areas.

The Federal aid that each of the New England states received in 1968 under each of these headings is shown in Table XI. In addition to the Federal aid distributed through these major programs there is a bewildering array of other available grants. One guide designed for school administrators lists 232 specific grants for which individual public schools may qualify,[65] many of them little known and involving only small amounts of funds. Since the Federal contribution to public school finance flows through such a maze of diverse channels, it would be surprising to find that the resultant pattern of distribution shows significantly equalizing tendencies. However, Congress has evinced an increasing concern for equalization, and the pattern of Federal aid distribution across states has become relatively

[65] Howard S. Rowland and Richard L. Wing, Federal Aid for Schools (NY: Macmillan, 1970).

TABLE XI

FEDERAL AID IN MAJOR PROGRAMS APPLICABLE TO PUBLIC SCHOOLS
NEW ENGLAND STATES, 1968

	($thousands)					
	Conn.	Maine	Mass.	N. H.	R. I.	Vermont
Elementary & Secondary Education Activities* #	16,842	5,596	22,523	3,260	4,925	2,778
Maintenance & Operation of Schools in Federally Affected Areas	3,082	2,638	13,728	1,867	3,467	83
Vocational Education#	3,342	1,013	5,474	466	54	746
School Lunch Program#	1,952	1,129	5,208	691	360	431
School Milk Program#	1,761	510	3,745	586	414	248

NOTES:
*Primarily ESEA and NDEA funds.
#Depending on arrangements within the various states, part or all of these funds may be spent in programs run by the state rather than the individual districts.

SOURCE: Statistical Appendix, Annual Report of the Secretary of the Treasury on the State of the Finances, Fiscal Year Ended June 30, 1968, Table 76, pp. 264-281.

more equalizing over the years.[66]

A recent study examined the relationship between state income and Federal aid per school-age child for seven different Federal public school aid programs.[67] Rank correlation coefficients were calculated to test for equalizing effects, which would be indicated by large negative coefficients. The results were mixed, reflecting differences in program design and intended effects. Some programs showed no equalizing effects (e.g. P.L. 874 funds) or even anti-equalizing effects, but in other cases built-in equalization features did appear to be effective; the test yielded rank correlation coefficients of -.72 for vocational education funds and -.96 for payments under NDEA-III.

For funds distributed under ESEA-I, the coefficient was -.64. The equalizing effects indicated must result from a correlation of generally low income levels and number of children from low-income families (the primary basis for allocation). As a result of 1967 amendments, ESEA-I funds should have more significant equalizing effects today.

Even in those few programs where Federal public school aid is distributed among the states in a partially equalizing manner, there is no assurance that equalization at the local level will not be vitiated by the intra-state allocation of funds.[68] Federal program specifications do not deal with the problem of equalization among school districts within states.

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[66] James A. Maxwell, "The Equalizing Effects of Federal Grants," Journal of Finance (May 1954), pp. 209-10; ACIR, The Role of Equalization in Federal Grants (Washington, 1964), pp. 63-5; and I. M. Labovitz, "Federal Assistance to State and Local Governments," pp. 31-33.

[67] Unpublished study cited by S. Kern Alexander, "Trends and Issues in School Finance," Interdependence in School Finance..., p. 154.

[68] For an early discussion of this important problem, see Byron L. Johnson, The Principal of Equalization Applied to the Allocation of Grants-in-Aid, Bureau of Research and Statistics, Federal Security Agency, Social Security Administration (Washington, 1947), Appendix A.

This problem is illustrated by the results of a recent study of the distribution of Title I funds under ESEA. Although the inter-state allocation appeared to be moderately equalizing, there was no significant relationship between per pupil aid and fiscal capacity of the recipient school districts. The author correctly pointed out that the funds allotted to the state could be used more effectively and equitably to further program goals if the intra-state distribution of funds were inversely related to local wealth.[69]

The distribution of Federal aid per pupil among school districts within the New England states is described by the statistics in Table XII. The average and median levels of Federal aid per pupil vary widely from state to state, but the figures show an even greater variation within states, and some districts receive no Federal money at all. Furthermore, except for Maine, there is no significant relationship at all between total Federal aid per pupil and school district wealth as measured by equalized valuation per pupil.

These facts are about what would be expected given the diversity in objectives and design and the large number of Federal programs available to public schools. However, to an important extent the variation in per pupil Federal aid among school districts is an unfortunate, unintended and undesirable result of the complexity and excessive categorization of existing Federal programs. Full participation in the available Federal programs entails a considerable administrative burden. Districts that know the ins

[69] Myron L. Anderson, "A Financial Analysis of Title I, Public Law 89-10, and the Formation of a Defensible Federal Financial Aid Distribution Plan," Interdependence in School Finance..., pp. 192-3. The study of intra-state allocation used data from Indiana.

TABLE XII

DISTRIBUTION OF PER PUPIL FEDERAL AID FOR PUBLIC SCHOOLS (F/P)
NEW ENGLAND STATES

	Conn.	Maine	Mass.	N.H.	R.I.	Vermont
Federal Aid per pupil (F/P) at School District Level ($):						
10th Percentile Level	2	0	8	5	11	8
Median	11	22	26	20	29	26
90th Percentile Level	33	60	56	60	97	82
Mean	16	27	32	28	42	41
Variance	301	827	1,041	814	1,895	2,468
% of School Districts Receiving No Federal Aid	0	14	2	3	0	.2
Simple Correlation of (F/P) and Equalized Valuation Per Pupil (V/P)	-.07	-.25*	-.05	-.07	-.12	-.08

*Significant at the 1% level; none of the other coefficients is significant even near the 10% level.

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and outs of "grantsmanship" can benefit while others, lacking access to this specialized knowledge, suffer by virtue of an "information gap" that means loss of potential Federal aid. These problems have been documented by a recent survey which found, among other things, that Federal aid per pupil tends to be lower in smaller districts, and districts that employ a full-time Federal aid consultant participate in more different programs and receive greater amounts of total Federal aid per pupil. The study concludes that the "evident ability of some suburban districts and some large city districts to obtain significantly more aid than their counterparts...can only be ascribed to aggressiveness, perseverance, creativity and awareness of the administrator or administrators assigned to obtain Federal aid." The survey results suggest that districts employing a full time Federal grant administrator receive, on the average, 32% more Federal aid per pupil.[70]

The Rube Goldberg complex of Federal grants has been the subject of considerable criticism lately. There appears to be growing support for reform, which could be accomplished fairly easily by consolidating existing programs, simplifying application procedures, and providing readily accessible information on what programs are available.[71] Even much needed changes such as these, however, would not go very far toward relieving even inter-state disparities in educational opportunity. In order for the Federal government

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[70] Howard S. Rowland, "Survey of Federal Aid Received by Individual School Districts During 1968-69 School Year," (available from the Macmillan Company, New York, N.Y. 10022).

[71] See ACIR, Fiscal Balance in the American Federal System, Vol. 1 (Washington, 1967), Chs. 2 and 5; and Hon. William V. Roth, Jr., "The Federal Establishment: Some Needed Reforms," Tax Foundation, Inc., Tax Review, Vol. XXIX (August 1968), pp. 33-6. For a general review of Federal programs for public schools, see Garvue, Modern Public School Finance, Ch. 10.

to play a meaningful part in pursuing this objective, many educators believe that the present categorical grants must be supplemented by even larger amounts of Federal funds in the form of general aid distributed on an equalizing basis.[72]

The call for Federal general aid to public education is nothing new. General aid, as opposed to specialized programs, was recommended in 1931 by the National Advisory Committee on Education (Hoover Commission), reflecting a sentiment that began to grow after World War I. Many different forms of general aid bills have been proposed in Congress, including recently some variants of revenue sharing proposals which would earmark shared revenues for public education. The debate about Federal school aid was bogged down in political issues involving fears of Federal control, controversy over segregated school systems, concern about private schools and sensitivity regarding any specific allocation method proposed;[73] concern over these issues intensified whenever general aid proposals were debated.

The passage of the Elementary and Secondary Education Act in 1965 was hailed not only as a new source of substantial financial support for

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[72] See the statement by NEA president George D. Fischer before the General Subcommittee on Education, House Education and Labor Committee, November 12, 1969, pertaining to hearings on H.R. 10833 (NEA Release).

[73] See F. J. Munger and R. F. Fenno, Jr., National Politics and Federal Aid to Education, (Syracuse: Syracuse University Press, 1962), and Federal Role in Education (Washington: Congressional Quarterly Service, 1965) for a review of the political battle for Federal aid to education. The powerful lobby against general Federal school aid has included the U. S. Chamber of Commerce, National Association of Manufacturers and Daughters of the American Revolution. Opposing "any grant by the Federal government to all states...for education purposes," President Eisenhower warned that "...unless we are careful even the great and necessary educational processes in our country will become yet another vehicle by which the believers in paternalism, if not outright socialism, will gain still additional power for the central government."

public schools but also as a major step in the direction of general aid: local school systems were given unprecedented leeway in planning and executing their own Title I programs, subject only to state approval and broad Federal guidelines. A recent examination of Title I programs uncovered many examples of grave misuse of funds and arrived at the pessimistic conclusion that "with few exceptions, the States lack the ability to administer competently programs in a manner faithful to national policy."[74] Advocacy of more general school aid from the Federal government implies confidence that state and local authorities will employ the funds for sound purposes in keeping with national objectives. The unfortunate experience with Title I funds in some areas hardly inspires confidence.

There is much that the Federal government could do to relieve existing disparities in public school spending and tax burdens, not only among, but also within states. Action is needed to direct Federal aid to those areas where present needs are greatest, either by revision of existing programs or introduction of new ones. If the Federal government is to play a meaningful role in equalizing educational opportunity it must make a much larger financial commitment. In a broader context, there is growing recognition that "...the Federal government cannot carry out its responsibilities for the general welfare, and its responsibilities under the Employment Act of 1946 for growth, for maximum employment, production and purchasing power, without investing more in elementary and secondary education."[75]

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[74] Title I of ESEA: Is It Helping Poor Children? A report by the Washington Research Project of the Southern Center for Studies in Public Policy and the NAACP Legal Defense and Educational Fund, Inc., (1969), p. 80.

[75] Walter W. Heller, "The Economic & Fiscal Outlook," in Trends in Financing Public Education, p. 20.

VI. PROPOSALS FOR REFORMING PUBLIC SCHOOL FINANCE SYSTEMS

Local governments, which suffer the consequences (or reap gratuitous benefits) of the present inequitable methods of public school finance, are essentially powerless to change the system. Unless the higher levels of government take action to reform the system disparities in the local financial burden of public education will persist and, most importantly, children in unfavored locations and socio-economic positions will continue to be the victims of unequal educational opportunity.

The preceding sections make clear that there are many possibilities for reform open to both the Federal and state governments. A frontal attack on the current problem could involve a package of policy changes involving total amounts of intergovernmental aid, the structure of state and Federal public school aid, as well as broader changes affecting government organization and the distribution of functional and fiscal responsibilities among the Federal, state and local levels. Much of the current interest in reforming public school finance systems--and intergovernmental fiscal relations in general--has been inspired by increasing concern about poverty and growing awareness of the particular problems of the cities.[76]

Fiscal disparities within metropolitan areas have been well documented.[77]

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[76] For suggested policy changes see Norman Beckman, "How Metropolitan Are Federal and State Policies?" Revenue Sharing and its Alternatives, Vol. II, pp. 1007-1021, and ACIR, Fiscal Balance in the American Federal System, Vols. 1 and 2.

[77] See particularly ACIR, Fiscal Balance..., Vol. 2, including case studies of twelve metropolitan areas (Appendix D); Alan K. Campbell and Seymour Sacks, Metropolitan America: Fiscal Patterns and Governmental Systems (NY: The Free Press, 1967); and for emphasis on educational dimensions, Seymour Sacks and David Ranney, The Allocation of Fiscal Resources to Large City School Districts (Syracuse: Syracuse University Press, in process).

The resources of central city governments are being increasingly strained by burgeoning demands for public services; in many cities the tax base has actually declined as industry has moved to outlying areas and valuable property has been removed to tax-exempt status. The contrast between the economic fortunes of the core cities and their suburbs is quite striking, and the general picture of fiscal disparities within metropolitan areas under the present system is exceedingly gloomy: cities incur much higher non-educational expenditures than their suburbs; their property tax rates are generally higher, and school spending per pupil is lower. Yet the suburbs get more state school aid per pupil in most states. These results are all the more perverse because educational needs per pupil are greater in large city school systems as a result of inner city concentrations of culturally deprived children from low-income families. Providing equal educational opportunity to disadvantaged children requires extra spending not only for schools but also for other social services, thus aggravating the differential burden of an overall program that would equalize educational opportunities. State aid formulas discriminate against the cities because they neglect entirely or fail to compensate adequately for the added burdens of non-educational spending and the greater educational needs of the urban student population; some Federal programs operate in the right direction, but present funding is not nearly adequate against the magnitude of the problem.

A major political commitment will be required to reform the present public school finance system. "The present allocation of resources [for public schools] may reflect the distribution of political power in American society; but it does not match the distribution of need."[78]

[78] Campbell, "Inequities of School Finance," p. 48.

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Disparities in tax rates and school spending appear most dramatically in city-suburb comparisons, but they are just as pernicious in the general context of the present system. In fact. fiscal disparities among suburban towns in many metropolitan areas are quite severe and appear to be increasing over time.[79] The school finance problem has reached crisis proportions even in locations that are isolated from the exacerbating social and economic difficulties of the cities.[80] Any of the various proposals discussed below would contribute in some way to reduction of present inequities.

More Equalizing State Aid. Defects of present state school aid systems have been described above; rather than reiterata the shortcomings of actual systems, the most promising approaches to increased equalization will be summarized briefly here.[81]

Full equalization would, of course, be attainable under an unconstrained percentage equalization plan. Such a system could also preserve incentives and a maximum degree of local control. However, experience to date, together with analysis of hypothetical systems, suggests that implementation of percentage equalization in a truly effective "pure" form is unlikely.

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[79]See G. Alan Hickrod and Cesar M. Sabulao, Increasing Social and Economic Inequalities Among Suburban Schools: A Study in Educational Administration and Finance (Danville, Ill.: Interstate Publishers, 1969), a study for the U. S. Office of Education.

[80]As a striking example, CBS News documented the case of Fremont, Ohio, a town where local property taxes are among the lowest in the Nation and the schools were closed because voters failed to approve a levy to provide operating funds ("The Day They Had to Close the Schools," CBS Reports, January 27, 1970).

[81]For detailed recommendations for reform within present state school aid systems, see ACIR, Metropolitan Social and Economic Disparities: Implications for Intergovernmental Relations in Central Cities and Suburbs (1965), pp. 125-126; and ACIR, State Aid to Local Government, Ch. 3 and p. 20.

Percentage equalization is one specific method of eliminating the present tie between local wealth and school spending, but more generalized solutions are possible. One particularly appealing proposal combines the virtues of simplicity, flexibility and a complete elimination of wealth-connected disparities in local tax effort and educational spending while at the same time completely preserving local decision-making and control. This proposal is labeled by its proponents "district power equalizing"; under the proposed system, a district's educational spending is made a function of local effort alone:[82]

> ...Power equalizing is a commitment by the state to the principle that the relationship between the effort and the offering of every district shall be the same irrespective of wealth, and that the district shall determine the effort (within appropriate limits if the state so desires).... Like the present system, power equalizing contemplates that districts will shape and value education differently and, therefore, that the offerings throughout the state will differ. Local incentive is stressed to the exclusion of the incompatible value of statewide equality of offering.

The power equalizing plan could be implemented in a variety of ways, as its authors suggest. For example, it would be attained if the state simply specified a schedule relating local tax effort and school spending levels. To the extent that any district's revenues at a given tax rate do not match the corresponding scheduled expenditure amounts, the state would make up the difference in cases of shortfall or require payments to the state in the event of excess local collections. Therefore, no deviations from the tax rate-expenditure schedule would be possible. All communities would be free to decide how much to spend on their schools, and those with low valuation per pupil would suffer no disadvantage. The state could specify a tax rate-expenditure schedule of any form at all, e.g. it could provide strong in-

[82]Coons, Clune and Sugarman, Private Wealth and Public Education, Ch. 6.

centives for spending up to some level and reward additional spending beyond that level with relatively less assistance from state funds.

Current trends suggest that, short of any comprehensive reform, it is likely that states will choose to make their present systems more "sophisticated," as many have begun to do, by adding increasingly complex weighting procedures to reflect differences among districts in fiscal capacity, non-educational spending burdens, and educational needs. A detailed plan for reforming state school aid and eliminating community disparities in educational opportunity has been proposed by the ACIR.[83] The four-part plan consists of (1) a "Basic Program" to provide a minimum per pupil spending level, financed by county-wide property taxes on an equalized base, supplemented where necessary by state funds and redistribution of excess local collections; (2) an "Educational Improvement Program" for expenditures up to twice the minimum level, with state aid supplementing local revenues on a strongly equalizing basis; (3) a "Special Educational Needs Program" guaranteeing state aid to pay the costs of legitimate special spending requirements and (4) state assistance to districts with below average equalized valuation per pupil for the purpose of participating in certain Federal programs requiring local funds.

Such a program has considerable appeal. To be effective, it would require a generous state aid commitment; without sizable increases in state funds, even the most excellent modification of existing state aid programs would fail to yield significant equalization.

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[83]ACIR, "Fiscal Measures for Equalizing Educational Opportunities for Economically and Socially Deprived Children," in <u>1968 State Legislative Program</u> (1967).

Consolidation of Small Districts. Disparities in school district wealth (equalized valuation per pupil) tend to be greater the smaller the size of the districts. Consolidation of small districts not only promotes more efficient operations but also reduces variation in local tax effort and school spending levels since needs and resources are ordinarily more homogeneous across jurisdictions encompassing larger geographic areas. Political resistance to district consolidation stems partly from obvious selfish motives: if two districts merge the operation and financing of their schools, the wealthier district residents might expect some increase in their own tax rates as some of their resources go to support education of their less prosperous neighbors' children. This is a particularly ticklish problem because wealthy suburbs have in many cases gone to great lengths, through restrictive zoning and other practices, to create low-tax enclaves. States may offer financial incentives to promote consolidation, but at the same time school aid systems as presently constituted tend to perpetuate small districts. If a state is to make much progress along this front, it may be necessary to compel consolidation. Disparities in public school finance are aggravated by the existence of numerous small school systems in the New England states. Here the problem is complicated because of the relatively large number of "dependent" school systems operated as adjuncts of town governments.[84]

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[84]See U. S. Bureau of the Census, 1967 Census of Governments, Vol. 1, Governmental Organization (1968), pp. 3-4, 6 and Table 13. In Hawaii, all schools are state-dependent: the state government assumes full functional and financial responsibility; this is consolidation carried to the ultimate level. In Maryland, school systems are all adjuncts of county government.

The dependent situation of many New England schools creates problems in making financial comparisons because municipal governments provide some services that would otherwise be charged explicitly to the schools. See Massachusetts Advisory Council on Education, Massachusetts and Its Support of the Public Schools, MACE Report 1-67 (1968), pp. 20-24.

Broadening the Geographic Base of Property Tax Support. Any geographic expansion of taxing districts would ameliorate the present inequalities in school tax rates and spending levels that stem from disparities in local wealth. Movement to county-wide or regional taxing districts would promote more equitable school finance, and local control could easily be preserved within such a system. An areawide plan could be implemented by setting a uniform tax rate to finance a target per pupil spending level and permitting localities to impose supplementary taxes to underwrite a program above the areawide standard. This approach to equalization has particular appeal as a means of reducing disparities within metropolitan areas.[85]

Broadening the property tax base to encompass the entire state, as in Models I and II analyzed above, would of course produce even greater equalizing effects. Historically, the states have yielded the property tax base to local governments, but it is within their power to reclaim it for such a program. The plan would resemble a foundation-type program with a target spending level guaranteed and financed through redistribution according to need of the revenues generated by a uniform local tax rate plus supplementary state funds. The degree of actual equalization in the final result would depend on the level of the equalized spending target and the nature of provisions for state aid to districts that spend more than the program amount. If the equalized program level is too low, or if the redistribution procedure fails

[85]For description of a comprehensive plan to implement this approach, including draft legislation, see ACIR, "Metropolitan Educational Equalization Authority," in ACIR State Legislative Program--New Proposals for 1969 (1968). The ACIR has also recommended steps that the Federal government could take to encourage and assist metropolitan educational arrangements; see Fiscal Balance..., Vol. 2, pp. 11-12.

to account adequately for differential needs, the equalization objective will be compromised.

State-wide property tax financing has been proposed in several states, including Vermont and Maine.[86] The specific proposals differ considerably in detail, but all would offer significant gains over the present systems. A state-wide property tax plan has been proposed for Michigan by Governor Milliken as part of a comprehensive reform program for the public school system. Under this proposal, the state would determine reasonable operating costs for the public schools and would pay 100% of the bill for each school district, supplementing the property tax yield with funds from general revenues. Local districts would be permitted to levy property taxes for supplementary spending, and the state would provide generally equalizing aid for this purpose, but additional spending financed by this means would be strictly limited.[87]

An interesting compromise suggested for Ohio (but not adopted) would represent a major advance but illustrates the tenacity of the advantage accruing to wealthy districts. Spending would be equalized up to a fairly high level, and equalizing grants would be provided to support supplementary spending by districts up to an "average" level of wealth. Richer than "average" districts, while not qualifying for supplementary grants, would

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[86]See "Beyond State Aid," speech delivered by former Vermont Governor Philip H. Hoff, January 30, 1968, in support of H.535; and Charles C. Sutton, "Plan Would Aid Poorer Schools," Portland (Me.) Press Herald, December 11, 1968. An early proponent of state-wide property tax financing was Lynn A. Stiles of the Federal Reserve Bank of Chicago.

[87]See Citizens Research Council of Michigan, "Analysis of the Governor's Educational Reform Proposals," Memorandum No. 213 (November 1969). The Michigan proposal is based largely on the work of J. Alan Thomas; see his report School Finance and Educational Opportunity in Michigan (Lansing: Michigan Department of Education, 1968) and "Modernizing State School Finance Programs: A State System to Equalize the Distribution of Education," in Interdependence in School Finance..., pp. 34-42.

retain an advantaged position because they could still raise any amount of additional dollars per pupil at a lower tax rate than the district of "average" wealth.[88] This type of compromise may be necessary to obtain political approval of a reform proposal. Even with constraints more damaging than this one, a state-wide property tax scheme would yield substantial equalization benefits. For example, the modest plan proposed for Vermont, if enacted, would have reduced the ratio of maximum to minimum effective school tax rates from a factor of approximately 34 to a factor of 3.

Once a state-wide property tax plan is adopted, the prospects for general relief of local property tax burdens would be enhanced; this could be achieved over time by gradual increments in the state share of program costs, with uniform reductions in local tax rates. The plan would capture revenues from property values now locked up in low-tax enclaves and would have positive side-effects, for example, in rationalizing land-use patterns: a move to state-wide (or, generally, areawide) property taxation "could shrink to the vanishing point the 'leverage effect' that increments to the tax base can exert upon property tax levels, and by this means virtually eliminate incentives to influence the landscape with an eye to taxes and school enrollments."[89]

State Take-over of Public School Costs. There is widespread support for state assumption of a much larger share in total public school expend-

[88] This Ohio proposal is described in Wise, Rich Schools, Poor Schools, pp. 204-6, citing Stephen K. Bailey, et al., Achieving Equality of Educational Opportunity, (report for the Ohio Foundations, May 1966).

[89] Lynn A. Stiles, "Relative Federal, State, and Local Responsibility in Education," in Federal-State-Local Fiscal Relationships, p. 226.

itures, particularly as a means of easing the urban financial crisis.[90] In Hawaii, where the usual tradition of local school support never existed, the state exercises full functional and financial responsibility for schools. A more modest plan, which would call for complete state financing of public education while retaining local policy-making and control, was advocated by James B. Conant in 1968 and has won widespread support among educators.[91] Conant argued that "public education in the states would be greatly improved if educational decisions at the local level could be completely divorced from considerations of local taxes." His proposal was "radical" in that he recommended complete elimination of local tax support for schools,[92] and he recommended state financing through broad-based taxes rather than the property tax. He argued that severing the tie between local control and local finance was not only desirable but even necessary to insure provision of public education at a high standard.[93]

The goal of complete state assumption of financial responsibility for schools has already been approached in North Carolina, Delaware, New Mexico and Louisiana (in addition to the unique case of Hawaii). Substitution of broad-based state taxes for local school taxes has great appeal in terms of overall equity in state-local tax structures. In supporting this proposal,

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[90]See the statements by a panel of urban experts in "Financing Our Urban Needs," Nation's Cities (March 1969), pp. 30-32.

[91]Conant presented his proposal at the 1968 meetings of the Education Commission of the States. Attitudes revealed by a poll of school administrators are reported in "Conant State Finance Plan Gets Qualified Approval," Nation's Schools, Vol. 83 (January 1969), pp. 70-71.

[92]James E. Allen, Jr., "The State, Educational Priorities, and Local Financing," Integrated Education, Vol. VI (September-October 1968), p. 56.

[93]"For many years, I advocated local financing as a necessary assurance of local control. I have now reversed my position. I have come to believe that the financing of the education of our American children is too important to be left to the mercy of local electorates"--"Conant Comments on this Month's Poll," Nation's Schools, Vol. 83 (January 1969), p. 71.

the ACIR notes that

> Budgetary considerations may dictate a somewhat gradual rather than immediate substitution of State tax dollars for local property tax receipts. However, there is evidence to suggest that perhaps as many as 20 or more states could assume responsibility for substantially all public school financing if they made as intensive use of personal income and sales taxes as the "heavy-user States" now make on the average. When viewed alongside the potential decrease in the local property tax, State assumption of financial responsibility loses its idealistic cast and takes on the appearance of a realistic and equitable readjustment of the total tax burden.[94]

The local property tax would remain as the dominant revenue source for local non-education services, and for whatever school "enrichment" such a plan might permit to local districts (the ACIR proposal would strictly limit local supplementation to a maximum 10% of state outlays, a compromise in contrast to Conant's complete prohibition). Relative relief would therefore be greatest in jurisdictions with low proportions of non-educational to total local expenditures.[95] A plan to right the balance somewhat has been proposed and has received prestigious support; this plan calls for combining state assumption of educational costs with Federal take-over of welfare costs. This scheme would release substantial state funds that could be used to support education and would focus additional local tax relief in the core cities, where relief is most urgently needed.[96]

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[94] ACIR, "State Financing of Public Elementary and Secondary Schools," ACIR State Legislative Program--New Proposals for 1970 (1969).

[95] For an example of the quantitative relief that would result town by town, see calculations based on a proposal for Massachusetts, in William Cooper and William Greenwald, "State School Takeover Would Shift Taxes Spectacularly," Boston Sunday Herald Traveler, September 1, 1968, Sec. 1. p. 33.

[96] ACIR, State Aid to Local Government; and Mabel Walker, "Financial Responsibility for Education and Welfare," Tax Institute of America, Tax Policy, Vol. XXXVI (April 1969). The ACIR report contains calculations regarding the fiscal feasibility of such a system (Ch. 2).

Federal Block Grants for Public Education. Over the past few years, Congress has shown increasing interest in Federal "block" grants to the states, in the form of either completely general purpose grants or untied aid for broad functional categories. Several "Tax Sharing for Education Acts" have been proposed, reflecting concern specifically for increasing the Federal contribution to public education.[97] In early 1967, the "Quie amendment," which would have converted the entire elementary and secondary education program to a block grant basis, was introduced but failed to pass.

Hearings were held recently on a broad new proposal for general educational aid, "The General Education Assistance Act of 1969," a bill sponsored by the NEA.[98] Advocates of this proposal identify several desirable features: it would be simple to administer; it would not involve an increase in Federal control over local school operations; and it would focus Federal money on aid to local school budgets. Funds would be allocated in two parts. "Basic grants" would be distributed to states on the basis of school-age population, and this money would be supplemented by "equalization grants" allocated according to the proportion of "low-income" students in each state. Approximately one-third of the total funds would be devoted to this latter explicitly equalizing provision; this feature of the bill yields very sub-

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97 See the summary of proposals in Maureen McBreen, "Federal Tax Sharing: Historical Development and Arguments for and Against Recent Proposals," Revenue Sharing and Its Alternatives, Vol. II, pp. 730-735.

98 H.R. 10833. For arguments in support of the bill on pertinent statistics, see George D. Fischer, statement cited in footnote 72.

stantial equalizing effects across states.[99] Providing amounts ranging from $114 per pupil in Nevada to $230 per pupil in Mississippi, the measure would require funding of $7.8 billion. In its support of the general aid bill, the NEA argues that categorical programs alone cannot adequately meet the pressing needs of public schools, and a massive additional outlay of Federal funds is required in order to achieve significant educational progress. In the face of recent actual and proposed reductions in Federal support of elementary and secondary schools,[100] the prospects for new funding at the proposed magnitude do not appear hopeful.

Congress has recognized the dominant position of educational expenditures in the existing and projected total budgets of state and local governments. To an important extent, therefore, revenue sharing plans and general aid to public schools are potential rivals for the Federal purse. "In fact, it was the absence of any Federal program of general aid for education which provided considerable impetus for the revenue sharing idea in the early 1960's."[101] The current Administration revenue sharing proposal would provide some aid to public education, indirectly by increasing state general revenues and directly by guaranteeing at least some funds to all local

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[99] The impressive equalizing effect of setting aside a portion of unconditional grant funds for distribution to low-income states was demonstrated by James L. Plummer, "Federal-State Revenue Sharing," Southern Economic Journal, Vol. XXXIII (July 1966), pp. 120-126. Using 1964 data, Plummer found a correlation of -.274 between state per capita personal income and allotment under a revenue sharing plan based on population and tax effort. If 10% of the funds are set aside for supplementary aid to the poorest 17 states the correlation becomes -.708.

[100] See "NEA Charges Nixon Administration Reneged on Campaign Pledge to Nation's Teachers" (NEA Release, November 12, 1969).

[101] William H. Robinson, "Revenue Sharing and Creative Federalism--Some Perspectives" Federal-State-Local Fiscal Relationships, p. 152.

government units. In contrast to earlier bills, the Administration proposal would have minimal equalizing effects in its allocation among states. Since the amounts involved (estimated total distribution of $5 billion by 1976) would be only a drop in the state-local revenue bucket,[102] this specific proposal would not appear to be a satisfactory substitute for increased aid to education, and proponents will certainly continue to press for a bill such as the General Education Assistance Act. Several points will undoubtedly arouse particular Congressional concern. It is reasonable to anticipate efforts to build in revenue maintenance provisions designed to prevent substitution of tax relief for educational improvement, and a debate is likely on the degree to which funds will be granted unconditionally. Hopefully, explicit attention will be given to standards for intra-state allocation of funds.

How Can Reform Be Achieved? The constitutional and financial responsibility for provision of public education lies with the state governments. The Federal role in public school finance is essentially "ancillary and remedial in character, even if crucial and extensive."[103] Action by the Federal government to promote equalization between states, or to stimulate compensatory programs in areas of particular need, cannot be fully effective until state systems are reformed in such a way that the present dependence of local school spending and tax effort on local wealth is broken. Short of a perfectly equalizing state system, movement in the direction of eliminating

[102] See Presidential statement and articles in the New York Times, August 14, 1969, pp. 1, 24-25. The program funds would be partly wasted because many local jurisdictions would receive less than $100 in allotments. The Administration proposal would require intra-state allocation of funds in proportion to each unit's share in total local revenue raised in the state--with anti-equalizing effects.

[103] Coons, Clune and Sugarman, Private Wealth and Public Education, Introduction. The authors' full views on this point are presented in Ch. 7.

existing disparities is of course possible by implementing reforms suggested above at the state or Federal level. However, these would only be piecemeal changes unless the state adopts a fully equalizing public school finance plan such as "pure" percentage equalization. On this score the record of the states does not encourage hope, and it appears likely that legal action will be required:

> ...The pressures for full equality of educational opportunity have always been strong; the governments of the states have long been urged to fulfill their commitment to public education. But the pressure has always been diverted by deft and frustrating political compromise that is probably the most that can be expected in the absence of judicial intervention.[104]

A legal attack on existing state public school finance systems could be based on the Fourteenth Amendment "equal protection" clause of the Constitution. The argument, in essence, would consist in showing that state systems yielding the result that within the state a child's education depends on the wealth of his community are unconstitutional. Beginning in 1968, unprecedented legal actions have been taken against state public school finance systems on "equal protection" grounds. None of the suits has been successful to date, but it has been argued quite cogently that a case against a state system could be won if a proper approach is taken and an intelligible judicial remedy suggested.[105]

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[104] Ibid., Ch. 5

[105] For discussion of the "equal protection" argument applied to public school provision, see references cited in Footnote 5 and discussion in Daly, The Quality of Inequality.... A comprehensive legal rationale and proposed judicial remedy are developed by Coons, Clune and Sugarman in "Educational Opportunity..." and Private Wealth and Public Education, Part III. Actual court challenges are described in Ibid., and ACIR, State Aid to Local Government, pp. 43-44.

ADDENDA

(1) All the above discussion has been limited to consideration of the public school finance problem in its various guises and the nature of reforms in the system that could positively affect equality of educational opportunity. Of course, achievement of this much broader objective is impeded by a multiplicity of non-financial problems as well, such as inhibiting organizational structures and other inherent rigidities. Many critics of present public education have suggested that new alternatives are needed, that educational opportunity could be vastly improved in a system permitting a variety of schools to flourish in competition with public education. The concept of a competitive education market was originally propounded by Milton Friedman.[106] The financing of such systems could be arranged by some form of direct government grants to parents (or to the school of their choice). Such a radical restructuring of elementary and secondary education goes beyond the context of this study, and the idea will not be pursued further here, except to note that it is possible to devise financial arrangements that

[106] "The Role of Government in Education," in Robert A. Solo (ed.), Economics and the Public Interest (New Brunswick: Rutgers University Press, 1955), pp. 123-144. See also Kenneth B. Clark, "Alternative Public School Systems," Harvard Educational Review, Vol. 38 (Winter 1968), pp. 100-113, and Christopher Jencks, "Is The Public School Obsolete?" Public Interest, No. 2 (Winter, 1966), pp. 18-27.

would provide family payments on a fully equalizing basis.[107]

(2) It is interesting to speculate on the possibility of cumulative effects resulting from any significant reform of present school finance systems. The literature on the incidence of the property tax suggests a tendency for property taxes to be capitalized and therefore reflected in property values. Also, many observers have suggested that <u>residential</u> property values tend to be higher, <u>ceteris paribus</u>, in communities where schools are known to be of relatively high quality. In a recent cross-sectional regression study, Wallace E. Oates reported results that support both of these hypothesized relationships:

> ...Local property values bear a significant negative relationship to the effective tax rate and a significant positive correlation with expenditure per pupil in the public schools. The size of the coefficients suggests that, for an increase in property taxes unaccompanied by an increase in the output of local public services, the bulk of the rise in taxes will be capitalized in the form of reduced property values. On the

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[107]Friedman's system would provide uniform stipends on behalf of every pupil and would therefore be non-equalizing, as various critics have pointed out. For description of possible financing arrangements on an equalizing basis (with respect to family income) see M. V. Pauly "Mixed Public and Private Financing of Education: Efficiency and Feasibility," <u>American Economic Review</u>, Vol. LVII (March 1967), pp. 120-130; Henry M. Levin, "The Failure of the Public Schools and the Free Market Remedy," <u>The Urban Review</u>, Vol. 2 (June 1968), pp. 32-37; Coons, Clune and Sugarman, <u>Private Wealth and Public Education</u>, Ch. 7. Proponents of these systems have argued that mixed public and private financing would elicit an increase in total resources devoted to education (see also Wm. Craig Stubblebine, "Institutional Elements in the Financing of Education," <u>Southern Economic Journal</u>, Vol. XXXII, Pt. 2 (July 1965), pp. 15-34). Federal legislation to provide grants to public <u>or private</u> schools on a per pupil basis has been proposed (H.R. 776: "School Children's Assistance Act of 1969"). Any of the competitive systems would encounter the still unresolved constitutional question surrounding government aid to private schools; see NEA, <u>The Pupil's Day in Court: Review of 1968</u> (1969), pp. 53-56, and Jacob W. Landynski, "Governmental Aid to Non-Public Schools: The Constitutional Conflict Sharpens," <u>Social Research</u>, Vol. 36 (Autumn 1969), pp. 333-356.

> other hand, if a community increases its rates and employs the receipts to improve its school system, the coefficients indicate that the increased benefits from the expenditure side of the budget will roughly offset (or perhaps even more than offset) the depressive effect of the higher tax rates on local property values.[108]

If equalizing aid to public schools were increased, it seems plausible that there would be some resultant tendency for property values to rise in relatively poor communities where school spending levels would rise and local tax rates would quite likely fall. Similarly, if a state were to adopt a uniform state-wide school tax rate, property values could conceivably decline somewhat (at least relatively) in the "rich" towns where property tax rates would rise without any necessary offsetting increases in spending levels. The magnitude of such effects in the context of reforming public school finance systems is, of course, conjectural and would depend on the nature of the reform, but any convergence of relative property values resulting from changes in the distribution of school tax burdens and spending levels would tend to ameliorate total variation in property tax rates among communities within a state.

(3) It must be emphasized that this report stresses problems in existing arrangements for financial support of <u>basic current public school expenditures</u> and proposals for reform designed to bring about a more equitable distribution of school tax burdens and current spending per pupil within each state. Refinements, such as accounting for differences in total ability to pay (<u>e.g</u>. adjusting for local governments' non-educational public service costs) and differential need for school expenditures (<u>e.g</u>. the higher

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[108] Wallace E. Oates, "The Effects of Property Taxes and Local Public Spending on Property Values: An Empirical Study of Tax Capitalization and the Tiebout Hypothesis," <u>Journal of Political Economy</u>, Vol. 77 (November/December 1969), p. 967. Oates' results are based on data for towns in northern New Jersey.

costs of compensatory education programs required to effectively equalize educational opportunity) have been mentioned but not analyzed in depth. While these matters are of recognized importance, the need for fundamental reform of state systems for financing basic program costs is primary, and such reforms would represent an important step forward even in the absence of fine adjustments. Since public school spending looms so large in total state and local budgets, improvements in this sphere would contribute significantly to overall equity in state-local public finance. Moreover, on non-economic grounds there is strong justification for singling out public education as an area of special policy concern.[109]

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[109] See for example Coons, Clune and Sugarman, "Educational Opportunity...," Pt. VIII and Private Wealth and Public Education, Preface and Pt. III, including their discussion of "The Equal Sewer Problem."

APPENDIX I

DESCRIPTION OF DATA AND SOURCES*

The data for this study have been provided by the State Education Departments of the several states.** In all instances, the departments obtain equalized valuation and assessment data from the appropriate state tax authorities; they receive school finance and membership data in the annual reports submitted by the school districts. Although the format and the detail of these reports vary from state to state, generally the detail provided is in sufficiently flexible format to permit the construction of consistent data series.

In order to impose conceptual unity on the data and to insure completeness, we have utilized an accounting framework recommended by the U. S. Department of Health, Education and Welfare.*** Tables showing the main expenditure and revenue accounts in this framework are reproduced on the following pages. We have attempted to view all state data through this framework and, if a series appeared to be incomplete or missing, we have made appropriate inquiries to the state education authorities for clarification.

The collection and compilation of accurate and detailed data by school districts is a relatively recent phenomenon. Furthermore, concepts

*This Appendix was prepared by David H. Swinton and Kathryn L. Holliday.

**The only exception is Connecticut, for which most of the data is taken from a Connecticut Education Association publication. Even in this case, however, the data are derived from state education department sources. The figures have been checked against state sources to ensure consistency with our definitions.

***Office of Education, Financial Accounting for Local and State School Systems, State Educational Records and Reports Series: Handbook II, OE-22017 (U.S.G.P.O., Washington, 1966). Details of the classification system and its rationale are provided in this basic source.

CLASSIFICATION OF RECEIPT ACCOUNTS

REVENUE RECEIPTS
10-40 Series

10. REVENUE FROM LOCAL SOURCES
  11. TAXATION AND APPROPRIATIONS RECEIVED
    11-a. Taxes Received from School District Levies
    11-b. Taxes Received from Local Governmental Units Other than School Districts
    11-c. Appropriations Received from Local Governmental Units Other than School Districts
  12. TUITION FROM PATRONS
    12-a. Regular Day Schools
    12-b. Adult Education
    12-c. Other Tuition from Patrons
  13. TRANSPORTATION FEES FROM PATRONS
  14. OTHER REVENUE FROM LOCAL SOURCES
    14-a. Earnings from Permanent Funds and Endowments
    14-b. Earnings from Temporary Deposits and Investments
    14-c. Net Receipts from Revolving Funds or Clearing Accounts
    14-d. Rent from School Facilities
    14-e. Rent from Property Other than School Facilities
    14-f. Gifts and Bequests
    14-g. Miscellaneous Revenue from Local Sources
20. REVENUE FROM INTERMEDIATE SOURCES
30. REVENUE FROM STATE SOURCES
  30-a. State
  30-b. Federal Money Received through the State
40. REVENUE FROM FEDERAL SOURCES

NONREVENUE RECEIPTS
50-70 Series

50. SALE OF BONDS
60. LOANS
  60-a. Short-term
  60-b. Long-term
70. SALE OF SCHOOL PROPERTY AND INSURANCE ADJUSTMENTS
  70-a. Sale of Real Property
  70-b. Sale of Equipment
  70-c. Net Insurance Recovery

INCOMING TRANSFER ACCOUNTS
80-90 Series

80. AMOUNTS RECEIVED FROM OTHER SCHOOL DISTRICTS IN THE STATE
  80-a. Tuition
  80-b. Transportation
  80-c. Miscellaneous
90. AMOUNTS RECEIVED FROM SCHOOL DISTRICTS IN ANOTHER STATE
  90-a. Tuition
  90-b. Transportation
  90-c. Miscellaneous

CLASSIFICATION OF EXPENDITURE ACCOUNTS

ADMINISTRATION 100 SERIES

110. Salaries
120. Contracted Services
130. Other Expenses

INSTRUCTION 200 SERIES

210. Salaries
 211. Principals
 212. Consultants or Supervisors
 213. Teachers
 214. Other Instructional Staff
 215. Sec. & Cler. Asst's
 216. Other Salaries for Instr.
220. Textbooks
230. School Libraries & Audiovisual
240. Teaching Supplies
250. Other Expenses

ATTENDANCE AND HEALTH SERVICES 300-400 SERIES

300. Attendance Services
 310. Salaries
 320. Other Expenses
400. Health Services
 410. Salaries
 420. Other Expenses

PUPIL TRANSPORTATION SERVICES 500 SERIES

510. Salaries
520. Contracted Ser. & Pub. Carriers
530. Replacement of Vehicles
540. Transportation Insurance
550. Expenditures in Lieu of Trans.
560. Other Expenses

OPERATION OF PLANT 600 SERIES

610. Salaries
620. Contracted Services
630. Heat for Buildings
640. Utilities Except Heat
650. Supplies
660. Other Expenses

MAINTENANCE OF PLANT 700 SERIES

710. Salaries
720. Contracted Services
730. Replacements of Equipment
740. Other Expenses

FIXED CHARGES 800 SERIES

810. Employee Retirement
820. Insurance and Judgments
830. Rental of Land and Buildings
840. Interest on Current Loans
850. Other Fixed Charges

FOOD SERVICES AND STUDENT-BODY ACTIVITIES 900-1000 SERIES

900. Food Services
 910. Salaries
 920. Other Expenses
 930. Separate Fund or Account
1000. Student-Body Activities
 1010. Salaries
 1020. Other Expenses
 1030. Separate Fund or Account

COMMUNITY SERVICES 1100 SERIES

1110. Recreation
1120. Civic Activities
1130. Public Libraries
1140. Custodial and Detention Care of Children
1150. Welfare Activities
1160. Nonpublic School Pupils
 1161. Instructional Services
 1162. Attend. & Health Services
 1163. Transportation Services

CAPITAL OUTLAY 1200 SERIES

1210. Sites
1220. Buildings
1230. Equipment

DEBT SERVICE FROM CURRENT FUNDS 1300 SERIES

1310. Principal of Debt
1320. Interest on Debt
1330. Paid into Sinking Funds
1340. Schoolhousing Authority
1350. Other Debt Service

OUTGOING TRANSFER ACCOUNTS 1400 SERIES

1410. Districts in the State
1420. Districts in Another State
1430. Tuition to Other Than Public Schools

and definitions used at the state level may change from year to year and new programs may be introduced at the state and Federal levels. Because of these considerations and the immensity of the data collection task, we have concentrated on data for one year instead of trying to construct a consistent set of time series. We thus endeavor to compile consistent cross-section data for each state in order to illustrate the inter-district disparities that are the main focus of this study.

Six basic statistics are derived from the data for use in this study. All other measures used are derived from these six basic statistics. Their definitions follow:

Current Operating Expenditures (E): All regular day school expenditures made by the taxing unit on account of residents of the taxing unit less expenditures on capital outlay and debt service account.

State Share (S): All state revenue contributed for regular day school expenditures for residents of the taxing unit being educated at public expense less state contributions to debt service and capital outlay account.

Federal Share (F): All Federal revenues contributed for regular day school expenditures for residents of the taxing unit being educated at public expense.

Local Share (L): All revenues raised by the taxing unit to finance regular day school expenditures for residents of the taxing unit excluding revenues expended on capital outlay and debt service account.

Resident Membership (M): The total number of resident pupils enrolled in regular day schools for whom the taxing unit is financially respon-

sible.*

Equalized Valuation (V): Generally, the full market value of all taxable property within a district as determined by the state tax authorities.

The first five statistics are all defined on a regular day school basis. This excludes expenditures on adult education, special manpower programs, junior colleges, and other "irregular" programs. Included are expenditures on pupils enrolled for school during regular school hours and in "regular" school programs. This includes normal elementary and secondary programs, vocational school programs (if operated locally), "special" education programs (programs for deaf, mentally retarded, etc.) and in some cases summer school programs. This restriction on the data is made because we are interested in deriving statistics for the normal education programs for resident school children. Furthermore, the incidence of "irregular" or extra programs across districts is uneven and data are not always available for these programs at the school district level. We have also defined these statistics in terms of pupils whose education is "paid for by the taxing unit." The effect of this restriction is to eliminate data for private school pupils and pupils educated at the expense of some other taxing unit.

The school financial statistics utilized in the study exclude capital and debt service charges so that these "current operating" figures are

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*We have used enrollment figures in this study whenever possible (instead of the customary attendance or average membership figures). School budgets are considered more closely related to enrollments than attendance. Furthermore, data is not generally available to derive resident basis average daily membership or attendance figures. We also note that enrollment figures are likely to have a higher inter- and intra-state consistency than attendance figures.

not total cost figures. Current operating statistics are used instead of total expenditure figures in order to avoid the distortions caused by the uneven distribution of capital and debt service expenses across districts in any given year. Furthermore, it is not possible in all cases to separate capital outlay from debt service expenditures, and almost never possible to separate capital and debt service revenues at the state level. The current operating expenditures concept provides a relatively undistorted basis for inter-district comparisons. While it is true that current operating statistics will vary among districts partly because of local peculiarities these local peculiarities are most likely a more or less permanent feature of the educational finance picture and as such should be preserved by our statistics.

In the framework of the Office of Education handbook mentioned earlier, total current operating expenditures would be defined as follows:

$$E = \sum_{i=1}^{10} \text{100 Series} + \text{1400 Series (+1100 Series)}.$$

In practice, the 1100 series is sometimes partially included because it cannot always be eliminated. Our intention is to exclude 1100 series expenses (expenses for community services) whenever possible because they are not considered a part of a "normal" regular day school program for public school pupils.*

*Community services are "additional responsibilities delegated to the schools over and above their primary function of providing education." Office of Education, *op. cit.*, p. 128.

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Using the formula indicated above total current operating expenditures are easily calculated, for in most instances the expenditure accounts are sufficiently detailed to permit application of the formula.

It is not always so easy to obtain the <u>revenue</u> accounts on a current operating basis although clearly it is desirable to do so for purposes of symmetry. Generally, total operating revenues cannot be directly derived from the financial accounting framework. The states do usually divide their state aid between capital outlay and debt service and other aid, however, and it is possible to obtain total state aid for current operating purposes by separating the two elements, i.e.,

S = Total State Aid - State Aid for Capital Outlay/Debt Service

It is not possible on the basis of the available data to separate local revenues into "current operating" and capital outlay/debt service components. However, we derive a figure for local current operating revenues by defining total current operating revenues (R) as the sum of state, Federal and local revenues for current operating purposes,

$R = S + F + L$

and defining

$R = E.$

Therefore, by definition,

$E = S + F + L,$

and local revenues (L) can be derived on a residual basis as the difference between current operating expenditures and the sum of state and Federal revenues, as defined above, i.e.,

$L = E - S - F.$

Local revenues defined in this way thus do not correspond to any identifiable revenue categories in the usual accounting framework; even though local revenues may be detailed by type of receipt they are not ordinarily earmarked for any particular category of expenditure.

Federal revenues (F) as defined in this study include <u>all</u> Federal aid.* No deductions are made from total Federal revenues to reflect Federal aid for capital outlay or debt service. Thus, the Federal contribution indicated by our figures is not on a strictly comparable "current operating" basis to the extent that it includes some revenues used for capital outlay or debt service expenditures. This element of inconsistency is inevitable because it is not possible to distinguish at the district level Federal revenues contributed for operational and capital/debt service purposes. We know that in fact many Federal aid programs include some provisions for construction or purchase of equipment. However, the share of Federal aid to construction and purchase of equipment is generally a small part of total Federal aid. According to the "Special Analysis J" of the 1970 U. S. Budget, Federal support of facilities and equipment spending was only $155 million out of a total of $3,694 million in aid to secondary and elementary schools for the U. S. as a whole for FY 1968. Furthermore, the effect of the distortion in the present analysis is mitigated by the fact that total Federal aid comprises a small portion of total revenues available to the average taxing unit.

For these reasons we expect the bias introduced by this procedure to be small. Since L = E - S - F, the direction of the bias is clear. As derived in this study, F is clearly larger than the true "F" when

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*It has been possible to eliminate PL 815 Aid to Impacted Areas, because of the very few instances in which it is granted and because it is solely for construction purposes only.

there is significant Federal aid to construction or equipment spending. In such cases an upward bias occurs in the Federal share. If F is large, L is reduced correspondingly; and a downward bias in L results.

Since $R = E = S + F + L$, the state, Federal and local revenue figures derived for this study actually represent funds contributed by each level of government to finance current operating expenditures (E) as defined above. In other words, S represents the share of current operating expenditures paid out of state revenues, and L and F represent the local and Federal contributions. For brevity, S, L and F refer below to state, local and Federal shares respectively.

We have emphasized the concept of residents in all of our definitions. This concept is not always straightforward: educational statistics are generally reported on the basis of school districts which may educate children who are not residents of the district. When this is the case the school district normally reports total expenditures and receipts, including amounts expended and received on account of non-resident students.

Therefore, current operating expenditures as reported typically include expenditures for residents (E^r) plus expenditures for nonresidents (E^n) i.e.,

Reported $E = E^r + E^n$

Similarly, total receipts as reported includes receipts both on account of residents (R^r) and nonresident pupils (R^n). In order to obtain figures on a resident basis for this study, adjustments are necessary in both the expenditure and the receipts sides of the reported accounts. The general case in which the school district data must be adjusted to take account

of non-residency is one of the taxing unit sending some or all of its students to schools in another district and paying tuition, and/or providing schooling for pupils from another district and receiving tuition. In order to obtain a figure for a taxing unit's current operating expenditures for its resident pupils, the basic figure is, of course, the taxing unit's expanditures on schools that it operates. The relevant expenditure figure on a resident pupil basis is derived by taking this figure plus outgoing tuition payments (expenditure series 1400) less incoming tuition receipts (80-90 series in the receipt accounts).

This treatment of tuition payments creates several problems. One is that actual tuition payments may be used to some extent by the receiving districts to pay for non-current expenses (capital outlay and debt service). Ideally, it is desirable to make the necessary adjustments representing only the fraction of tuition payments that is used for operational purposes. This is not possible, however, because data are not available to make such fine adjustments; but the bias (if any) introduced as a result is not expected to be very large. In practice, tuition charges are usually relatively fixed and therefore do not fluctuate freely with capital expenditures. To the extent that tuition charges are a relatively fixed ordinary cost or receipt of the taxing unit they should properly be reflected in any measure of current expenditures receipts on a resident basis. If in any specific case tuition charges include some amount for extraordinary capital expenses, the resulting current expanditure figures will be overstated somewhat for the paying district and understated for the receiving district.

Another possible problem is introduced by the fact that outgoing tuition payments are assumed in the adjustments to represent actual total current expenditures for resident pupils educated in other school districts. This assumption may be violated in practice. For example, if the tuition-receiving school district receives state or Federal aid on the basis of its total enrollment (i.e., resident and nonresident) it is clear that a portion of the aid funds involved is expended on nonresident pupils. If this situation exists, to a significant extent it is clear that outgoing tuition payments understate total expenditures on resident pupils of the tuition-paying district. This same situation would lead to an overstatement of the state or Federal shares in current expenditures for resident pupils of the receiving district. Because appropriate data again are not available, it is not possible to make the necessary adjustments. However, the distortion does not appear to be very significant in quantitative terms.

The participation of local taxing units in regional or consolidated school systems necessitates special adjustments in reported school district figures. In these cases, expenditures and receipts of the regional school districts are allocated among the constituent towns where pupils attending the regional schools reside. Just as current expenditures of non-regional districts are broken down according to source of funds, an analogous expression for regional systems is:

$$E_r = L_r + S_r + F_r$$

In most cases regional district figures can be obtained directly from published sources. The problem is then to allocate regional district

expenditures (E_e) and receipts (L_r, S_r and F_r) among the constituent local taxing units (towns). This allocation is accomplished on the basis of each constituent taxing units "proportionate share" in the district's total receipts. For purposes of exposition, a given taxing unit's proportionate share of the three regional district revenue figures is designated P_sS_r, P_fF_r and P_lL_r. The amount of a regional district's current expenditures (E_r) attributable to resident pupils of a given taxing unit (*i.e.*, the taxing unit's proportionate share in expenditures by the regional district, designated P_eE_r), is then derived as follows:

$$P_eE_r = P_sS_r + P_fF_r + P_lL_r.$$

The factors of proportionality, P_s, P_f and P_l, are generally based on ratios of equalized valuations, assessed valuations, local tax revenues, memberships or some other measure, depending on district and state practices. The proportions have been determined in accordance with these practices when known. When the particular practices are unknown, or inapplicable, the proportions reflect data availability and conceptual correctness. P_f is defined to equal the constituent taxing units proportionate share of total membership in the regional district whenever the necessary figures are unavailable.

In cases of taxing units that both participate in a regional district and operate some schools of their own (*e.g.* local elementary schools and a regional secondary school), expenditures and revenues allocated to them as a result of their regional district participation are simply added to figures separately available for the schools that they operate themselves.

A special case should be noted at this point:

School Administrative Districts (S.A.D.'s) in Maine are not treated as regional school districts in this study but as separate taxing units. This procedure is followed because all the schools attended by pupils residing in the constituent towns are operated by the S.A.D.'s, and the towns (at the time of our data) all paid the same effective tax rate on equalized valuations. Furthermore, the available statistics are aggregated at the S.A.D. level. We could not obtain the information necessary to disaggregate this data.

As described above in detail, the expenditure figures (and the resultant shares contributed by state, Federal and local government) used in this study are defined on a current operating basis, excluding capital outlay and debt service expenses. The difficulty, believed to be a minor one, caused by inability to deduct non-current items from the Federal share (F) has already been discussed. A more general difficulty affecting interstate comparisons must be noted at this point. The local share (L) is derived on a residual basis, and, as a result of the procedure employed in this study, excludes expenditures for capital outlay and debt service. The magnitude of L, however, is affected by the distribution of total state aid between current and non-current aid programs. Thus, if a particular state tends to give a relatively large portion of its total school aid in the form of aid to non-current expenditures, the state share (S) as defined in this study will be reduced relative to the level that would result if its overall school aid program placed a heavier emphasis on aid for current operations. Clearly the individual district is helped just as much by a fixed amount of state aid funds, regardless of how that total amount is

split between current and non-current spending.* But, one must be wary of interstate comparisons of relative state, local and Federal shares since these figures do not reflect the relative shares of state aid going to capital outlay/debt service expenditures.

*This is true as long as the district has to pay for the aided functions out of its own funds if the state does not contribute. To the extent that the state aid may have stimulated district expenditures which would otherwise not have been undertaken or which are of a lower priority than unaided expenditures the situation becomes more complicated.

Sources and Compilation Procedures

Following is a brief description by state of the main sources of information and the procedures utilized to calculate the statistics of this study. Unless otherwise indicated, all of the source material comes from the various state Departments of Education. The procedures used to compile the statistics are based on the conceptual categories as outlined in the first part of this Appendix.

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CONNECTICUT

Part I - Data Sources

Document #1 - A printed report titled "Local Education Finance 1967-68" and published by the Connecticut Education Association. The document presents information in tabular form concerning local taxes and educational finance for the school districts.

Document #2 - A mimeographed sheet titled "State Grant Payments Made During School Year 1967-68." This document from the Connecticut State Department of Education provides a breakdown of the State aid program.

Source #3 - A collection of information derived from items of the school district reports on file with the State Department of Education. The information includes an analysis of membership figures for regional school districts and a breakdown of regional revenues for current operation from sources other than member town assessments.

Part II - Compilation Procedures

Current Operating Expenditures

(a) Unaffiliated Towns

This statistic is obtained from Document #1, Table II, "Total Current Expenditures for Day School (Less Tuition)." (The amounts as given include summer school tuition.)

(b) Affiliated Towns

Current Operating Expenditures is the sum of the Local, State, and Federal Shares for each town.

State Share

(a) Unaffiliated Towns

This statistic is derived by subtracting the amounts for vocational

and for vocational agriculture in Document #2, from total state aid, given in Document #1, Table II, "State Grants." The balance is the state share.

(b) Affiliated Towns

The state share for affiliated towns is the sum of (1) the state share figure for the district operated by the town, and (2) the town's part of the regional figure for state share. The former is derived in the same manner as for the unaffiliated towns. The latter is derived from Source #3 and is checked against the information of Document #2. The regional share is divided among its members by multiplying the total amount by a ratio of the town's pupils in membership of the regional district to the total regional district membership.

Federal Share

(a) Unaffiliated Towns

This is the set of figures from Document #1, Table II, "Federal Grants."

(b) Affiliated Towns

This statistic is the sum of (1) the Federal share for the district operated by the town, and (2) the town's portion of the regional Federal share. The former is derived as above for unaffiliated towns; the latter is obtained by applying the ratios used to calculate the division of the regional state share to the figures for regional Federal share from Source #3.

Local Share

(a) Unaffiliated towns

The Local Share is derived on a residual basis as the difference

between Current Operating Expenditures and State and Federal Shares.

(b) Affiliated Towns

This figure is the sum of (1) the local share for the district operated by the town (calculated according to the procedure for unaffiliated towns), and (2) the town's portion of the regional local share figure. The regional local share is the residual from Source #3, having subtracted state and Federal revenues and regional assessments of member towns for operational purposes from the regional current operating expenditures. The residual is divided among member towns on the basis of membership ratios as above.

Equalized Valuation

For all towns this figure appears in Document #1, Table I, "Net Grand List (1967)" adjusted by the "Assessor's Percent" of the same table.

Resident Membership

For all towns this statistic is taken from Document #1, Table II, "ADM 1967-68."

MAINE

Part I - Data Sources

Document #1 - A copy of a computer printout containing a breakdown of expenditures by school district. Expenditures are classified according to function and are distributed among elementary, secondary, adult and summer school programs.

Document #2 - A copy of a computer printout listing revenues by school district. The data is classified by source and aggregated by local appropriations, state funds and other sources.

Document #3 - A computer printout titled "Federal Subsidies, School Lunch Program, Maine 1965-66." This document shows amount of Federal aid received by districts for School Lunch and Special School Milk programs.

Document #4 - A pamphlet series titled "Maine School Statistics," copies for January 1967 and for July 1, 1966-June 30, 1967. The statistics include an analysis of expenditures and state aid programs and data on equalized valuations and resident memberships.

Source #5 - Copies of ledger entries provided by the Maine Department of Education giving information on the distribution of Federal aid under the Elementary and Secondary Education Act (ESEA), Titles I and II.

Source #6 - Special information supplied by the Department of Education regarding resident enrollments for certain member towns of school administrative districts.

Part II - Compilation Procedures

General note: The School Administrative Districts in Maine are treated here as individual taxing units; their receipts and expenditures, then, are not allocated to the towns which comprise them. This procedure is followed because the data to make a finer analysis is not readily available. In addition, this treatment may be justified by the fact that all of the member towns within a particular S.A.D. have the same equalized tax rate at the time of this writing.

Those regional districts that do not behave as the S.A.D.'s with respect to the tax rate are not included in this study. Maine, therefore, has only one compilation category instead of the usual two.

Current Operating Expenditures

From Document #1, total expenditures for elementary and secondary education are summed, excluding community service, capital and debt service accounts and balance items (accounts 11xxx, 12xxx, 13xxx, 19xxx). From these sums are subtracted incoming transfer receipts (accounts 008xx and 00310) of Document #2. Amounts are added for: (1) Federal aid to School Lunch and Special Milk programs, from Document #3, and (2) funds for ESEA, Titles I and II, from Source #5. The resulting totals are Current Operating Expenditures.

State Share

The sum of state aid for current operating expenditures represents the State Share statistic. Revenues from the state are listed in Document #2, accounts 032x, 0371, 0373 and 0390.

Federal Share

The Federal Share is derived as the sum of (1) revenues from Federal sources of Document #2 (accounts 04xx); (2) funding for School Lunch and Special Milk programs, Document #3; and (3) moneys received under ESEA Titles I and II, Source #5.

Local Share

The Local Share is derived on a residual basis as the difference between Current Operating Expenditures and State and Federal Shares.

Equalized Valuation

The appropriate figures appear in Document #4, Section I, "State Valuation 1966."

Resident Membership

This statistic is the sum of elementary and secondary enrollment figures from Document #4, Section I, "April 1st Resident Enrollment 1966."

NOTES:

1. The towns of Deblois, East Plantation, Elliottsville Plantation, Grand Falls Plantation, and Kingsbury Plantation have been omitted from this study because they had no enrolled pupils during the year of interest.

2. The following towns are not included in the study because they belong to regional school districts: Boothbay, Boothbay Harbor, Franklin, Gouldsboro, Sorrento, Steuben, Sullivan, and Winter Harbor. Data for regional school districts is insufficient to define statistics for their member towns consistent with those of other towns.

MASSACHUSETTS

Part I - Data Sources

Document #1 - A printed report titled "Annual Report of the Department of Education for the Year Ending June 30, 1967 - Part II, Section B." This document contains several tables of particular interest:

Tables I, II and III: enrollment and attendance data for regular day school and special and vocational education programs;

Table V: population and valuation information;

Appendix: source and application tables for individual school districts, showing the sources and uses of funds by category.

Document #2 - A printed report titled "Annual Report of the Department of Education for the Year Ending June 30, 1967 - Part II, Section A." Table I gives information on school attending children including a division into categories of public, private, regional, and vocational and a subdivision of local and non-local basis.

Document #3 - A mimeographed sheet of 1966-67 regional school assessments. The document shows both current operating and capital/debt service components of the assessments to member towns.

Document #4 - A mimeographed sheet titled "Regional School Districts." The document describes the regional districts, their member towns, their organization and opening dates, etc.

Part II - Compilation Procedures

Current Operating Expenditures

(a) Unaffiliated Towns

Using the source and application tables of Document #1, Appendix,

all items identified as capital and debt service expenditures and expenditures on non-resident pupils are subtracted from total expenditures to arrive at Current Operating Expenditures, viz., from "Total Public School Funds Applied" are subtracted: "Acquisition of Fixed Assets," "Debt Retirement and Debt Services," "From Other Districts and Member Towns," "Tuition and Transportation of State Wards," and "Regional School Assessments." (The last item, "Regional School Assessments" is, of course, zero for the non-regional towns.)

(b) Affiliated Towns

For the towns affiliated with regional school districts, Current Operating Expenditures is the sum of their respective local, state, and Federal shares.

State Share

(a) Unaffiliated Towns

Capital and debt service aid and aid on account of non-resident pupils ("School Building Assistance" and "Tuition and Transportation of State Wards") are subtracted from total state aid ("Revenues from the Commonwealth"). The balance is the "state share."

All figures are from Document #1, Appendix.

(b) Affiliated Towns

The state share statistics for towns affiliated with regional school districts is the sum of two or more components: (1) the state share for the school district operated by the town, and (2) its portion(s) of the state share(s) for the regional school district(s) to which it belongs, whether regular or vocational regional districts.

The town's state share and the regular regional districts total state share are both calculated according to the procedure for non-regional towns. The town's portion of the latter is determined by multiplying the regional state share figure by the ratio of the number of resident pupils of the town enrolled in the regional school district to the total enrollment of the regional, from Document #2, Table I.

The total state share for vocational regional districts is also determined by the procedure for non-regional towns, but the total is adjusted by multiplying it by the ratio of "Total Regional School Funds Applied" to "Total Available Funds," also in Document #1, Appendix.*

The adjusted total is apportioned among the member towns by multiplying by a ratio of the town's assessment for regional current operating expenditures to the regional vocational districts total assessments for current operating purposes,** from Document #4.

Federal Share

(a) Unaffiliated Towns

The Federal Share statistic is the total Federal aid received under "Revenue from the Federal Government" in Document #1, Appendix.

(b) Regional Towns

The Federal Share for towns affiliated with regional districts consists of the same components as the State Share for these towns and is calculated by the same sort of procedure. Federal shares for the town's

*This adjustment is necessary because many of these districts had unusually large ending balance surpluses, having been but recently organized.

**Pupil enrollment ratios were unattainable in this case. According to the Massachusetts State Department of Education, the ratio of assessments are roughly proportional to membership.

district and the regional districts are calculated as for non-regional towns, adjusting the figures for the vocational regional districts by the same ratios used in the calculation of their state shares. The town's portions of the regional Federal shares are also determined in the same manner as the state shares. The sum of the components assigned to each represents its Federal Share.

Local Share

(a) Unaffiliated Towns

The Local Share is derived on a residual basis as the difference between the Current Operating Expenditures and the amounts financed from State and Federal sources.

(b) Affiliated Towns

The Local Share is the sum of components analogous to those of the State and Federal Shares of towns affiliated with regional districts. Components for the town's district and for the regional districts are derived on the same residual basis as the Local Share for non-regional towns. (Current operating expenditures for regional districts are computed in the same way as for non-regional towns.) The town's portion of the regional local share is obtained in all cases by multiplying the regional figure by the ratio of the town's assessment for current operating expenses to the total regional assessment for same, as calculated from Document #3.

Equalized Valuation

For all districts, Equalized Valuation is taken from Document #1, Table V, column "Valuation H.B. 4098." (The listing is given in thousands of dollars.)

Private School Pupils

For all districts, this statistic is taken from Document #2, Table I. Figures from the column labeled "Private" are added to obtain the total for each town.

Resident Membership

For all districts, this statistic is derived as the difference between the total number of children attending school (Document #2, Table I) and the "private school pupils." (The results have been checked for consistency with Document #2, Table IV, and Document #1, Table I. Appropriate adjustments have been made for discrepancies between tables.)

NOTES:

Several exceptions have been made to the above procedures.

1. Regional assessment components have not been included in the statistics for the following towns, although they list regional assessment figures in their source and application tables (Document #1, Appendix): Chesterfield, Southampton, Westhampton, and Williamsburg of Hampshire Regional District; Melrose, North Reading, Reading, Revere, Saugus, Stoneham, Wakefield, Winthrop and Woburn of Northeast Metropolitan Vocational Regional District; Warren of Quaboag Regional District; Taunton of Bristol-Plymouth Vocational Regional District; and Harwich.

The towns involved either could not be assigned to a regional district or belong to a regional district unlisted among the sources and application tables, according to the information of Document #4. The regional districts as above were at the time only in the organizational stares; and the assessments shown for the towns, adjusted for capital

and debt service charges, are small relative to total current operating expenditures of the towns. These considerations seem to justify omission of the regional components.

2. The following regional vocational school districts have not been included in the calculation of the study: French King, Montachusett, Nashoba Valley, and Shawsheen Valley Regional Vocational Districts. These districts either were not yet operative or had been abolished. The amounts involved, adjusted for capital and debt service, again are small relative to total current operating expenditures of the member town.

3. Adjustments have not been made for the listed assessments of the towns of the Quabbin Regional School District: Barre, Hardwick, Hubbardston, and Oakham. Because the regional district was not in an operational stage, its source and application table is not available. Although the amounts, unadjusted for capital and debt service, are not small relative to the total expenditures of the member towns (up to 10 percent in some cases), it would seem that most of the moneys could not reflect current operating expenditures inasmuch as the schools were not in operation.

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NEW HAMPSHIRE

Part I - Data Sources

Document #1 - A computer printout titled "Expenditures by District--1966-67 Financial Reports." This document gives a breakdown by category codes of all expenditures listed in the district reports.

Document #2 - A computer printout titled "Receipts - 1966-67 Financial Reports." This document lists by source (local, state and Federal governments) and category codes all receipts listed in the district reports.

Document #3 - A mimeographed report titled "1966-67 Average Daily Memberships based upon Attendance and Residence." This document lists by school district ADM in attendance and in residence. The data are broken down in both categories into elementary, high school and total figures.

Document #4 - A mimeographed report titled "Cooperative School Districts as of July 1, 1968--Part I Administrative Structure." This document lists the cooperative or regional school districts, and their member districts, grade structure, date of operation, the number of members on school board from each member district, and the financial apportionment formulas used to allocate the local share of expenses among the member districts.

Document #5 - A mimeographed report titled "Valuations, Property Tax Assessment and School Tax Rates of School Districts 1966-67."

Document #6 - A mimeographed report titled "Distribution of State Foundation Aid to New Hampshire School Districts--1966-1967 Table of Computations."

This document lists the state foundation aid payments and gives the

information used by the state to derive the amount of the payment.

Part II - Compilation Procedures

Current Operating Expenditures

(a) Unaffiliated Towns

The sum of district expenditures is taken from Document #1 (equal to the sum of accounts 1xxxx-14xxxx and excluding the balancing items). All amounts coded as expenditures on capital, debt service, and community services (accounts 11xxxx-13xxxx and 147750) are subtracted from the total expenditures. Then, all items identified in Document #2 as non-capital or debt service incoming transfer accounts (accounts 8100, 8200, 8900, and 9xxx) are subtracted from the expenditure figure. This balance is the Current Operating Expenditures statistic.

(b) Affiliated Towns

For towns that are members of regional districts, Current Operating Expenditures is derived as the sum of the local, state and Federal shares for each town.

State Share

(a) Unaffiliated Towns

The state share is the sum of the non-capital and debt service revenues from state sources listed in Document #2 (accounts 3xxx, excluding 32xx).

(b) Affiliated Towns

Because the regional or cooperative districts report on a consolidated basis in the source documents, the total state share for each is calculated as above for non-regional towns. This total is then allocated among the towns which are members of the district as follows: figures for

state foundation aid distributed to each of the member towns are taken from Document #6 and summed; this sum is subtracted from the regional district's total state share. The balance represents state aid funds given directly to the regional district; it is allocated among the member towns on the basis of resident ADM for 1964-65,* also from Document #6. The sum of the town's foundation aid and its share of the district's state aid is the regional town's State Share.

Federal Share

(a) Unaffiliated Towns

The Federal Share statistic is the sum of Federal revenue receipts listed in Document #2 (accounts 4xxx).

(b) Affiliated Towns

The regional district Federal share is derived as for the non-regional towns. This total is then distributed among the member towns on the basis of 1966-67 Resident ADM figures obtained from Document #3 to represent their Federal Share.

Local Share

(a) Unaffiliated Towns

The Local Share is derived on a residual basis by subtracting the State and Federal Shares from the Current Operating Expenditures.

(b) Affiliated Towns

The local share for the regional district as a whole is derived as for the non-regional towns: a current operating expenditures figure.

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*This is in accordance with current practice in the state.

for the regional district is obtained in accordance with the procedure for non-regional towns; the regional Federal and state shares, as calculated in procedure above, are subtracted from this expenditure figure. This result represents the combined local share for the towns comprising the regional district which is then distributed among the member districts according to the financial apportionment formulas of Document #4.

Equalized Valuation

For all districts, Equalized Valuation is taken from Document #6. (The 1964 valuations used here are the most recent which are available by school district.)

Resident Membership

For all districts, Resident Membership is taken from the listing of "Resident Membership, Total" of Document #3.

NOTE:

Winnacunnet Cooperative District and Dresden Regional District are exceptions to the procedure for affiliated districts. The former is only a high school district and calculation for its member towns must be made in two parts: the statistics for elementary schools are done in accordance with the procedure for non-regional towns; the high school statistics are derived in the same manner as for other regional towns. The sum of the two parts is the final figure for each of the member towns. The latter exception is an interstate regional district, but only data for the Hanover (N.H.) portion is represented.

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RHODE ISLAND

Part I - Data Sources

Document #1 - A printed document titled "1966-67 Statistical Tables." Of the various tables of information on schools, the following have been used:

Table 8 - data on resident membership, listed by district and grade;

Table 25 - data on current operating expenditures listed by source (state, Federal, and local) and given on a resident pupil basis.

Document #2 - A typewritten listing of expenditures under the Elementary and Secondary Education Act, Titles I and II, prepared by the Rhode Island Department of Education upon request.

Document #3 - A mimeographed sheet titled "1966 Equalized Weighted Assessed Valuation for Rhode Island Municipalities." The document includes full values based upon 1965 market values.

Document #4 - A typewritten sheet titled "Regional Schools General Appropriations," prepared by the Rhode Island Department of Education upon request. The appropriations are local assessments for regional operation.

Document #5 - A letter from the Department of Education with a table titled "ADM for Regional Schools." The table is a breakdown of regional ADM among member towns.

Part II - Compilation Procedures

Current Operating Expenditures

(a) Unaffiliated Towns

To "Net Current Expenditures" of Document #1, Table 25, are added

the amounts for ESEA, Titles I and II from Document #2. The total is Current Operating Expenditures.

(b) Affiliated Towns

This statistic is derived as the sum of the Local, State, and Federal Shares.

State Share

(a) Unaffiliated Towns

State Shares are listed in Document #1, Table 25, "State Share."

(b) Affiliated Towns

Figures for the town and for the regional district are obtained as for unaffiliated towns. The member's part of the regional figure is derived by multiplying the regional state share by the ratio of the town's resident pupils in membership of the regional to total regional membership. Membership data is from Document #5.

The State Share is then the sum of the town's state share and the town's part of the regional district's amount.

Federal Share

(a) Unaffiliated Towns

This is the sum of "Federal Share" from Document #1, Table 25, and of funds for ESEA Titles I and II from Document #2.

(b) Affiliated Towns

The Federal Share is the sum of the town's district figures and the town's part of the regional amount as for the State Share. The town and the regional figures are derived as for unaffiliated town's the latter is distributed by the membership ratios as above.

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Local Share

(a) Unaffiliated Towns

The Local Share is derived on a residual basis as the difference between Current Operating Expenditures and the State and Federal Shares.

(b) Affiliated Towns

The share is again the sum of a town figure and a portion of the regional figure. The former is calculated as for unaffiliated towns; the latter is given in Document #4.

Equalized Valuation

For all towns, this statistic is taken from Document #3, "Full Value."

Resident Membership

(a) Unaffiliated Towns

Memberships are listed in Document #1, Table 8, "Total, Pre K - 12."

(b) Affiliated Towns

The town's resident membership from Document #1, Table 8, "Total Pre K - 12," is added to the town's share of regional membership from Document #5. The total is the Resident Membership.

VERMONT

Part I - Data Sources

Document #1 - A printed report titled "1967-1968 Financial Statistics - Vermont School System." The report contains the following tables useful in this study:

Table II: data on general state aid to individual school districts, including average daily memberships of resident pupils;

Table IV: data showing receipts by source of school districts and union school districts;

Table V: data on current expenditures of school districts and union school districts.

Document #2 - A printed booklet titled "Vermont Educational Directory, 1968-1969." The document includes a listing of school districts, superintendencies and their districts, and union school districts and their member towns. (The organization of school districts given in the directory is the same as for 1967-1968 with one exception, Sherburne was unaffiliated in 1967-68, a member of Woodstock Union High School District in 1968-69.)

Document #3 - A mimeographed report titled "National School Lunch & Special Milk Programs." The report shows the amounts of Federal funds expended for these programs during fiscal year 1968, by school districts.

Document #4 - A written report titled "Title I, ESEA: FY 1968 Project Expenditures." This document lists by superintendency the amounts expended and the number of children served by Federal funding under Title I

of the Elementary and Secondary Education Act (P.L. 89-10).

Document #5 - A mimeographed report of the distribution of Federal funds to school districts in 1968 under Title II of the Elementary and Secondary Education Act.

Document #6 - A mimeographed report including the 1 percent fair market values for all school districts.

Document #7 - A mimeographed report titled "Maximum Basic Grants, Amounts Approved and Amounts Expended for Projects under Title I of P.L. 89-10 by Local and State Agencies." The document lists maximum grants for local educational agencies for 1966 and 1967 and the amounts approved and expended for 1966 under Title I, P.L. 89-10.

Part II - Compilation Procedures

Current Operating Expenditures

(a) Unaffiliated Towns

Operating expenses and outgoing transfers, less incoming transfers, are the basic data for Current Operating Expenditures for residents of towns which are not members of Union School District. This amount, however, understates operating expenses because School Lunch and Special Milk programs and projects funded under the Elementary and Secondary Education Act of 1965 (ESEA) are not considered part of the regular expenses in the Vermont data. The calculation for this statistic thus becomes: the addition of "Total Operating Expense" and "Outgoing Transfer Expense" from Document #1, Table V; the subtraction from the preceding sum of "Incoming Transfer Accounts," Document #1, Table IV; the addition to this balance of funds for (1) School Lunch and Special Milk programs;

(2) Title I and (3) Title II projects of ESEA, from Documents #3, 4, and 5 respectively. (Because Title I project expenditures are listed by superintendency, the funds must be distributed among school districts in proportion to previous amounts expanded. The procedure is more precisely explained in the description of Federal Share below.) This total becomes the Current Operating Expenditures statistic.

(b) Affiliated Towns

The sum of Local, State, and Federal Shares is the Current Operating Expenditures statistic for towns affiliated with union school district.

State Share

(a) Unaffiliated Towns

The sum of "General State Aid" and "State Vocational Aid" from Document #1, Table IV, is the State Share statistic.

(b) Affiliated Towns

The sum of the town's state share for its own schools and its portion of the union school districts state share is the State Share for those towns affiliated with union school districts. The town's individual share and the total union share are calculated as non-regional shares are. The union share is distributed among its members by the ratios of the town's resident average daily membership (ADM) to the union's total ADM.

The total membership of the union school district is derived by: determining the type of union (elementary and/or secondary) from the list "Union School Districts in Vermont" of Document #2; and summing the appropriate resident ADM figures for the members, given in Document #1,

Table II.*

Federal Share

(a) Unaffiliated Towns

The Federal Share is the sum of: (1) "Revenue from Federal Sources," from Document #1, Table IV; (2) funds for School Lunch and Special Milk programs, from Document #3; (3) funds for projects under Title I, ESEA, from Document #4; and (4) funds for projects under Title II, ESEA, from Document #5.

The first, second, and fourth components of the sum are obtained directly from the documents for the school districts. Allocation of Title I funds among the towns must be derived, however, because data for 1967-68 are available only on the basis of superintendencies. Unless the superintendency involves only one town's school district, which then receives the full amount shown in Document #4, the funds are distributed in proportion to the amounts expended in 1966 by members of the superintendency. Ratios for this distribution are derived from Document #7, taking the amount expended by local educational agency to the sum of amounts expended by all districts of the superintendency and applying these ratios to the figures of Document #4. The superintendencies and their members are listed in Document #2, "The 53 Superintendencies."

(b) Affiliated Towns

This statistic is calculated as for unaffiliated towns, with the

*The division between elementary and secondary follows district practice in the record of the State Department of Education. The break occurs then, after Grade 6 or Grade 8 according to the school's organization so that there is no difficulty summing for union districts which may be divided at either grade.

addition of the town's portion of the Federal share of the union school district. The union Federal share consists of the components as above, and is apportioned according to the ratios used to divide the union state share.

Local Share

(a) Unaffiliated Towns

This statistic is derived on a residual basis as the difference between Current Operating Expenditures and the State and Federal Shares.

(b) Affiliated Towns

The Local Share for towns affiliated with union school districts is the sume of (1) a local share residual for the town's district and (2) its portion of the union school district's local residual, both derived as for unaffiliated towns.

Current operating expenditures figures for town and union school districts can be calculated in the same manner as unaffiliated towns are. Respective state and Federal shares have been used in the procedures above.

Equalized Valuation

For all districts, Equalized Valuation is the 1% fair market value from Document #6 multiplied by a factor of 100.

Resident Membership

For all districts, Resident Membership is the sum of the elementary and secondary figures in Document #1, Table II, "Resident Pupils, Average Daily Membership."

NOTES:

Several districts require exceptional adjustments in the above procedures:

1. In Document #3, the data for Bennington includes both Bennington elementary schools and Union High School District #14. A separation of the two has been made according to membership ratios, as the necessary data are unavailable. Also under the School Lunch and Special Milk programs: "Brandon" includes Brandon ID and Brandon Town which have been divided according to information furnished by the Vermont State Department of Education; allocations for East Hardwick have been added to Hardwick's, North Danville to Danville's and Gilman to Lunenburg's upon the advice of the State Department of Education.

2. In several instances, the Library Need component of Vermont's formula for ESEA Title II distribution is a composite figure for several towns; the amount has been distributed among the towns in proportion to the "Per Capita Need" part of the formula. This adjustment has been made for towns of the following superintendencies: Rutland Northeast, Essex Caledonia (except Concord), and Caledonia North.

3. Chittenden and Mendon are treated as affiliated towns due to their membership in the Joint Contract Elementary School of Barstow. (Pittsford is also in Barstow, but is affiliated in addition with Union High School District #8; it is the only instance of dual affiliation in Vermont). The joint contract school is not technically a union school district and so does not appear in the list of Document #2. Its funds, however, are distributed according to procedures for union schools.

(Figures given for Chittenden under Documents #3 and 5 are for Barstow, according to the State Department of Education.)

4. State Vocational Aid figures for several districts have been reduced to allow for large amounts of construction aid included: Barre City and Union High School Districts 18 and 22. No breakdown is available for this aid program as to application of the funds and in most cases the amounts involved are small enough not to overstate the state share greatly. For the above which have exceptionally large amounts of aid, a derived figure has been substituted based upon the average per pupil amounts of aid received by secondary schools operating vocational programs. Other districts have been compared with 1965-66 data to check for large changes in state vocational aid receipts which would suggest construction aid.

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APPENDIX II

CALCULATION PROCEDURES FOR ANALYSIS OF HYPOTHETICAL EQUALIZING STATE AID SYSTEMS

Notation

e = current expenditures per pupil

r = "Basic" school tax rate

E = total current expenditures

L = local share in E

S = state aid in support of E

P = number of pupils

V = equalized valuation

The subscript i denotes data for individual districts, either actual present data or results of calculations under hypothetical systems. An asterisk designates a value set explicitly as a policy objective (e.g., e* represents a target per pupil spending level) or a value implied by a given policy target (e.g., setting a state-wide target e* implies total expenditures of $E_i^* = e^*P_i$ for the ith district). Symbols in parentheses represent state totals.

Model I: State-Wide Property Tax (100% Local Financing)

(A) Per-Pupil Spending Target

1. target = e* (set by state)
2. required expenditures = (E*) = e*(P)
3. implied uniform tax rate = $r^* = \frac{(E^*)}{(V)}$
4. required local contribution for each district = $L_i^* = r^*V_i$
5. required expenditures for each district = $E_i^* = e^*P_i$

6. district receipt from (+) or payment to (-) redistribution

fund $= R_i^* = R_i^* = E_i^* - L_i^* = e^*P_i - r^*V_i \quad \Sigma R_i^* = 0$

(B) Uniform Tax Rate Target

1. target = r^* (set by state)
2. total expenditures implied = $(E^*) = r^*(V)$
3. resultant per pupil spending $= e^* = \frac{(E^*)}{(P)}$

Other calculations as in (A) for individual districts.

Model II: State-Wide Property Tax Plus Fixed State Aid

(A) Per-Pupil Spending Target

1. target = e^* (set by state)
2. required expenditures = $(E^*) = e^*(P)$
3. state funds available = (S^*)
4. required local share = $(L^*) = (E^*) - (S^*)$
5. implied uniform tax rate $= r^* = \frac{(L^*)}{(V)}$
6. as in Model I, $R^* = E^* - L^*$; however, since state funds are distributed,

   $\Sigma R^* = (S^*)$ in this case.

(B) Uniform Tax Rate Target

1. target = r^* (set by state)
2. required local contribution = $(L^*) = r^*(V)$
3. state funds available = (S^*)
4. total expenditures implied = $(E^*) = (L^*) + (S^*)$
5. resultant per-pupil spending $= e^* = \frac{(E^*)}{(P)}$

Other calculations as in (A) for individual districts.

(C) Constraint to Avoid Redistributive Transfers

This is an example of a program where the state effectively sets targets

for e^* and r^*; the amount of state aid required, (S^*), is no longer fixed.

1. target = e^* (set by state)
2. in order to avoid redistribution, the state sets $r^* = \frac{E^*_W}{V_W}$, where the subscript denotes the wealthiest district, in terms of $(V/P)_i$, and $E^*_W = e^*P_W$.
3. required local share = $(L^*) = r^*(V)$
4. implied state funds required = $(S^*) = (E^*) - (L^*)$

(D) Effect of Prorating

This is an example of a program where the state sets explicit targets for e^* and r^*, and again, a required state contribution, (S^*), is determined. The impacts of prorating available state funds to meet the constraint of an actual state aid budget (S') less than (S^*) are examined under two different assumptions.

1. targets = e^* and r^* (set by state)
2. required expenditures = $(E^*) = e^*(P)$
3. required local share = $(L^*) = r^*(V)$
4. implied state contribution required = $(S^*) = (E^*) - (L^*)$
5. state aid required for individual district =

   $S^*_i = E^*_i - L^*_i = e^*P_i - r^*V_i$

   (Note: S^*_i may be negative)
6. given $(S') < (S^*)$, a prorating factor is determined: $f = \frac{(S')}{(S^*)}$
7. for each district, actual state aid = $S'_i = fS^*_i$

CASE A--Assume expenditure target is maintained (so that $e^*_i = e^*$) and districts adjust by changes in tax rates, deviating from the target r^*.

A1. Actual local contribution for individual district =

$L'_i = E^*_i - S'_i = e^*P_i - S'_i$

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A2. Actual local tax rate for individual district =

$$r' = \frac{L_i'}{V_i} \gtrless r^*$$

CASE B—Assume uniform tax rate target is maintained (so that $r_i^* = r^*$) and districts adjust by changes in expenditures, introducing deviations from the target e^*.

B1. Actual expenditures of individual districts =

$$E_i' = L_i^* + S_i' = r^*V_i + S_i'$$

B2. Actual per-pupil spending levels for individual districts =

$$e_i' = \frac{E_i'}{P_i} \quad e^*$$

Model III: Percentage Equalizing Without Redistribution

1. target = e^* (set by state)
2. required expenditure for each district = $E_i^* = e^*P_i$
3. determine capacity measure for wealthiest district = "max." $(V/P)_i$
4. the state aid ratio, or state share, for each district =

$$(\%S)_i = \left[1 - \frac{(V/P)_i}{\text{max. } (V/P)_i}\right]$$

5. required state aid for each district = $S_i^* = (\%S)_i E_i^*$
6. total state aid required = $(S^*) = \sum_i S_i^*$
7. for any given target, e^*, each district's required tax rate is the same: $r^* = \frac{(E_i^* - S_i^*)}{V_i} = r^*$

Model IV: Percentage Equalization, With Redistribution

(A) Unconstrained system based on "average" district. Under this type of program, the state sets a per-pupil expenditure target, e^*, and specifies some share (Q) of program expenditures that the "average" district must pay.

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Calculations are the same as in Model III except that the formula for the state aid ratio is different. It is based on the capacity of the "average" district, i.e., (V)/(P), and it incorporates Q:

$$(\%S)_i = \left[1 - \left(\frac{(V/P)_i}{(V)/(P)}\right) Q \right]$$

For any given target e*, equality of district tax rates is maintained ($r_i^* = r^*$).

(B) Impact of constraints in system based on "average" district. Calculations are the same as in (A), but the state aid ratio is constrained in three different ways. In each case, variance is introduced in r_i^*, the local tax rate required to finance the target program.

1. $(\%S)_i \geq 0$ This constraint eliminates the requirement of redistributive transfers implied by negative state aid ratios. Therefore, for rich districts, required tax rates, r_i^*, will be reduced relative to an unconstrained program.

2. $(\%S) \geq 0.2$ This constraint guarantees state aid ratios of at least 0.2 to all districts' all districts with $\%S < 0.2$ in the unconstrained version benefit as a result and can finance the program with lower relative tax rates.

3. $(\%S) \leq 0.8$ By prohibiting state aid ratios in excess of 0.8, this constraint forces the poorest districts to impose relatively higher tax rates in order to finance the target program.

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Senate **No.**

The Commonwealth of Massachusetts.

TENTATIVE PROPOSALS

FOR A

MASTER TAX PLAN

FOR THE COMMONWEALTH

Under Resolves of 1967, Chapter 162, and
Resolves of 1969, Chapter 3

October, 1970

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The Commonwealth of Massachusetts

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The Commonwealth of Massachusetts

RESOLVES ESTABLISHING

AND EXTENDING THE COMMISSION

CHAPTER 162, RESOLVES OF 1967

Resolve providing for an investigation and study by a Special Commission to Develop a Master Plan and Program for Taxation Within the Commonwealth.

Resolved, That a special commission, consisting of three members of the senate, five members of the house of representatives, and seven persons to be appointed by the governor, is hereby established for the purpose of making an investigation and study of the entire area of taxation within the commonwealth, including state, local, special district and county taxation, and the assessment, collection and distribution of taxes and revenue with the purpose of developing a master taxation planning program for the commonwealth for the period nineteen hundred and sixty-nine to nineteen hundred and seventy-nine, inclusive. Said commission shall also undertake the necessary research essential to the preparation of such a plan, and in so doing shall study the revenue needs of the commonwealth and its political subdivisions for the period involved, and shall recommend ways and means of providing revenue to meet such needs and also shall recommend such revision and codification of the existing tax laws as may appear necessary and desirable.

Said commission may call upon officials of the commonwealth or its various subdivisions for such information as it may desire in the course of its investigation and study. Said commission may accept gifts and grants of money from the federal government or any other public or private source. Said commission may co-operate with any agency of the commonwealth or its political subdivisions in the conduct of its investigation and study and may enter into co-operative agreements and contracts with any agency of the commonwealth or its subdivisions and with any private association, organization or corporation for the receipt of federal and other grants and gifts and for professional services, clerical and other services and supplies in connection therewith.

Said commission shall report to the governor and to the general court the results of its findings in the form of a master plan and program for taxation, including substantiating documents, schedules and exhibits together with recommendations and drafts of legislation to implement said plan by filing the same with the clerk of the senate, and a copy thereof with the governor, not later than January fifteenth, nineteen hundred and sixty-nine.

Approved December 13, 1967.

CHAPTER 3, RESOLVES OF 1969

Resolve reviving and continuing the Special Commission established to make an investigation and study relative to developing a Master Plan and Program for Taxation Within the Commonwealth and authorizing said Commission to travel without the Commonwealth.

v.

Resolved, That the special commission established by chapter one hundred and sixty-two of the resolves of nineteen hundred and sixty-seven is hereby revived and continued. Said commission is hereby authorized to travel without the commonwealth. Said commission may report from time to time to the general court.

Approved February 20, 1969.

The Commonwealth of Massachusetts

LETTER OF TRANSMITTAL

October 21, 1970

To His Honor, Lieutenant Governor Francis W. Sargent, Acting Governor, and the Honorable Senate and House of Representatives:

The Special Commission to Develop a Master Tax Plan has compiled a mass of data on the Massachusetts fiscal system and economy. This data will be made available in a series of reports, the first of which, on constitutional limits on the tax power, was published in 1969. The others, which will be published in the near future, deal with the present revenue structure (and comparisons with the revenue structures of other states), the revenue needs of the Commonwealth and its political subdivisions; and the potential of the Massachusetts economy to produce revenues sufficient to meet the anticipated needs through the existing tax structure.

Pending the publication of these factual reports, the Commission has been studying the data in order to identify the problems which need attention and consider some of the possible solutions. It has the honor to present the results of its deliberations to date in the form of this interim report, which summarizes the findings of the four factual reports and then outlines the Commission's tentative proposals for dealing with the most serious shortcomings of the present tax structure.

By indicating at this time its present thinking and tentative objectives, the Commission hopes that public discussion of its proposals will enable it to shape its final recommendations to meet more precisely and effectively the needs of the Commonwealth and its citizens.

Respectfully submitted,

GEORGE V. KENNEALLY, JR.

Chairman

TENTATIVE PROPOSALS FOR A MASTER TAX PLAN FOR THE COMMONWEALTH.

Introduction.

The primary task assigned to this Commission is the difficult and unique one of developing a "master taxation planning program" for the Commonwealth and its political subdivisions for the next decade. In order to accomplish this objective, the Commission was further directed to:

(1) study the entire area of taxation within the Commonwealth, including state, local, special district and county taxation;

(2) study the assessment, collection and distribution of taxes and revenue;

(3) study the revenue needs of the Commonwealth and its political subdivisions for the period involved;

(4) recommend ways and means of providing revenue to meet such needs; and,

(5) recommend such revision and codification of the existing tax laws as may appear necessary and desirable.

This enormous assignment has never been attempted before. Many commissions in the past have studied the tax structure or specific taxes. Commissions have studied specific assessment and collection problems. Commissions have investigated and proposed revisions in the distribution of revenue to the political subdivisions of the Commonwealth. And, finally, past commissions have proposed solutions to pressing revenue needs on the state or local level. But no commission to our knowledge has been asked to achieve all these objectives as part of one assignment and for such an extended period in the future.

Nonetheless and despite a considerable lack of data in certain areas, this Commission has approached its assignment as one which could and should be done. It has had prepared for its use and for the use of the Governor and the General Court, four extensive documents which gather together the information necessary for all to have for a proper understanding of the problems which confront us as citizens of Massachusetts and of its cities, towns, and counties. These reports--one of which is now in print and three of which are in the process of being completed--are as follows:

(1) Constitutional Limits on the Tax Power (First Report of the Commission, Senate No. 126, 1969);

(2) The Revenue Structure and a Comparison with Other States;

(3) The Economy and Its Revenue Potential;

(4) The Revenue Needs of the Commonwealth and Its Political Subdivisions.

The findings of these reports will be summarized below; the pertinent facts and comparisons will be outlined; and the problems which face us identified.

In addition, however, the Commission feels obligated to present to the officials of the Commonwealth and to the public the briefest possible outline of its conclusions drawn from data collected for it and to be presented in the above reports and, more importantly, its tentative proposals for long-term revisions in the state and local tax structure, the administration of taxes, and the distribution of state financial assistance to local units of government.

The Commission would like to emphasize two words: tentative and long-term.

The proposals contained herein are tentative. They are being presented at this time for purposes of public understanding and discussion. They are specific enough, we believe, to indicate the present direction of the thinking of the Commission in its suggestions for the future and yet general enough to allow amendments deemed to be necessary after public discussion.

The proposals contained herein are long-term. They are not designed to meet the specific immediate and pressing need for new revenue. They are, however, presented in sufficient detail that a revenue program can be designed to meet the immediate budget requirements, when the amounts required are more accurately determined, which will fit into the long-term master plan for the future.

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Constitutional Limits on the Tax Power.

The Massachusetts Constitution of 1780 authorized the General Court to levy "proportional and reasonable" taxes on persons and property and "reasonable" excises on merchandise and "commodities." Although the tax power is an inherent attribute of sovereignty, the Courts have interpreted these constitutional authorizations as limitations.

As a result, taxes on property must be levied at the same rate on all property within each taxing district; with narrow exceptions, no special exemptions or rate differentials may be made. But local rates of taxation vary widely, and thus the rate at which property is taxed depends on its location. This proved appropriate for tangible property, which benefits directly from local expenditures, but not for securities, which in addition are difficult to assess as property. Nonetheless, a constitutional amendment was required before the tax on shares and bonds could be based on income and levied at a uniform rate (different from the rate on unearned income) throughout the Commonwealth. This amendment, approved in 1915, also made it possible to tax earned income at a uniform statewide rate, but did not allow graduated rates on any income.

Excises need not be "proportional"; graduated rates are permissible for the inheritance tax, an excise on the transmission of property at death, and specific rates per gallon on motor fuels are valid. Excises can also be levied on "privileges" conferred by the state, such as that of doing business as a corporation, but not on "common" rights, like that of doing business as a trust with transferable shares.

The Revenue Structure and a Comparison with Other States.

Although the per capita revenue from state and local taxes is relatively high in Massachusetts, so is the level of per capita personal income. And in fact the position of Massachusetts relative to other states, both in tax burden and in personal income has improved over the last 20 years. The picture which emerges is that of a relatively prosperous state which has been able to meet a demand for a higher level of public services than some of the less industrialized states.

Massachusetts state and local taxes have been classified into five major groups: the property taxes, the personal income tax, the consumer and transaction taxes, the business excises, and miscellaneous taxes.

In 1968, as in 1949, the property taxes predominate to a greater extent than in other states, although their share of total state and local tax revenue has declined from 61% to 53%. In the United States as a whole the average proportion of total revenue raised by property taxes is 40%. Business excises were the next most important tax source in 1949; since the introduction of the sales tax, the consumer and transaction taxes are now more important, although by a smaller margin than in other states. But the strongest percentage growth in the tax system was registered by the personal income tax; this growth was caused by a general increase in earned incomes. But the level of personal income taxation in Massachusetts is not particularly high in relation to those of other states. In comparison with other states, Massachusetts derives relatively less revenue from licenses and fees and nontax revenue.

The Property Taxes

The local tax on real and personal property is the oldest tax, and in many ways the most complex because of the numerous exemptions enacted over the years to mitigate the burdens borne by different classes of taxpayers. Several other taxes may be regarded as descendants of the property tax, in that they represent attempts to cure inequities or inefficiencies of local property taxation and assessment by substituting uniform statewide taxes on certain classes of property. The most conspicuous example is the motor vehicle excise; others of the same type are the excises on farm animals and equipment, on ships, and on aircraft. For convenience these are treated as property taxes, although from the point of view of constitutional doctrine even those which are based on value are regarded as excises. The personal income tax and the property base of the corporation excise, a business excise, came into being as substitutes for the property tax. The exclusions of corporate property from local property taxation are more extensive than those provided in other states, at least until recently.

The Personal Income Tax

The personal income tax is really a series of taxes, levied at different proportional rates. Its original purpose was to remove inequities in the local assessment of stocks and bonds under the property tax. The tax on earned or business income and the tax on annuity income are the direct descendants of an ancient component of the local property tax; the elaborations have not changed their basic structure. The tax on gains from the purchase or sale of intangibles and the special tax on gains from the public taking of real property were introduced after the adoption

of the income tax amendment to the Constitution in 1915. Thus the Massachusetts personal income tax structure differs radically from the structure of the federal income tax and from the income tax structures of other states, although in recent years the methods of determining income under the Massachusetts tax have been conformed more closely to the federal pattern.

The Consumer and Transaction Taxes

Consumer and transaction taxes have also had a long history in Massachusetts. The present excises on cigarettes and alcoholic beverages date from the 1930's, although they had colonial counterparts; other earlier excises on luxury and other goods have disappeared. The two most important taxes in this group from the point of view of revenue, the motor fuels excise and the sales and use tax, are modern. The Massachusetts sales and use tax, first adopted in 1966, has one of the lowest revenue yields, in comparison with other states, because of its limited coverage. Taxes similar to these are levied by all but a few states. Taxes similar to the deeds excise are also common. Separate taxes like the Massachusetts meals excise and room occupancy excise are less so, except as parts of more general transaction taxes.

The Business Excises

Constitutionally and legally, the business excises are taxes on the privilege of doing business in the Commonwealth. The most important of them is the corporation excise, which was first levied in 1864 as a substitute for the property tax on the value of the shareholders' interests, after deduction of the value of property subject to local taxation. A tax on

net income was added in 1919, but the property base was retained and, although greatly changed in 1962, preserves a close connection with the property tax which is unique among state corporation taxes. Separate excises are imposed on commercial banks, savings banks, insurance companies, and public utilities corporations.

The Miscellaneous Taxes

The most important of the miscellaneous taxes is the inheritance tax, an excise on the privilege of receiving property passing on death. First enacted in 1891, it has had substantially its present form since 1907, although the rates have been increased several times, most recently in 1969. The inheritance tax and the racing tax, which is collected by the Racing Commission, are the only Massachusetts taxes levied at graduated rates. For purposes of this report licenses and fees are also treated among the miscellaneous taxes.

The Economy and Its Revenue Potential.

The significant economic forces are per capita personal income, which is relatively high in Massachusetts and has been growing rapidly during the past decade; employment, which has grown slowly overall and has been particularly weak in the manufacturing sector in the Commonwealth; value added, which has grown but more slowly than in the United States as a whole; productivity, which has been lower than the United States average and has even declined in relation to the average; and investment, which has been large here and is expected to continue so in the immediate future.

During the past 15 years the export base in the Massachusetts economy has been declining relative to the local sector and the level of total economic activity, mainly because of high energy costs and distance from

markets. The relatively slow growth of defense-related industries such as electrical machinery, transportation equipment, and instruments has not been able to offset the decline of the traditional export industries of textiles, apparel, and leather. But the economic well-being of Massachusetts ultimately depends on the continued growth of the national economy; and Massachusetts is in a position to take advantage of an expanding service export base and of the national demand, which can be expected to increase, for highly skilled services and their related manufacturing industries.

On the basis of statistical relationships between past revenues and personal income and between total personal income and personal income of the export sector, future yields of the present Massachusetts revenue structure and of its most important components have been projected according to different estimates of the growth of personal income and the relative size of the export sector. This projection shows that the Massachusetts tax structure seems quite responsive to the growth of personal income. Total revenues for fiscal 1970 were approximately $3 billion. Assuming that the Massachusetts economy continues to grow at a moderate rate, total revenues under the present structure and rates of taxation have been projected to a level of $5 billion by 1980. Even if the economy were to remain relatively stagnant, the 1980 projection is for a total revenue of $4.6 billion; on the most optimistic estimate regarding economic growth, on the other hand, a yield of as much as $6 billion is projected.

Revenue Needs.

The term "revenue needs," found in the resolve, is in one sense a misnomer. Demands from the public for services to be supplied

through government are subjective and difficult of objective measurement, and may or may not be "needs." To predict over the years the level of such demands, and the extent to which legislative bodies will appropriate funds to meet them, is at best a difficult task, and at worst a guessing game. A subcommittee of the Commission has done a great deal of work in this area, from interviewing the heads and staffs of governmental units charged with budgeting and expenditure responsibilities to producing on a computer various extrapolations of historical data curves. The Commission is not prepared at this time without further work to publish any specific projections in this area. The final report will attempt to fill this void in the present document. It would seem that failure to have specific expenditure projections does not impair the value of the balance of this report. A sound structure well adapted to and in conformity with the economic strengths and weaknesses of the Commonwealth should adjust appropriately to any reasonable level of expenditure by means of changes in rates.

Recommended Sources of Revenue.

The primary concern of the Commission is the over-reliance of Massachusetts on the property tax as a source of revenue. Not only does Massachusetts receive a far greater share of its total revenue from this source than do other states; but more importantly the burden of the tax is excessive. It is the most regressive tax of all those in the entire tax structure and a real deterrent to economic expansion. The total levy on real and personal property, not including the motor vehicle excise, was $1.4 billion in 1969. This burden was imposed on a property tax base which on an equalized basis (i.e., if all property were actually assessed at full and fair cash value) amounted to $28.2 billion. It amounted therefore,

to a tax averaging $49.70 per thousand dollars of full value. Expressed differently, this tax is roughly the equivalent of a sales tax of 5% on the full value of the property, as if it were purchased and re-purchased annually. Consequently, the Commission begins its recommendations with a proposal for the reallocation of the overall state and local revenue structure--in terms of the percentage of the total received from each of the major revenue categories.

For the fiscal year 1971, the proportions of the revenue sources are presently estimated as follows:

Property taxes	54%
Personal income tax	16
Consumer and transaction taxes	14
Business taxes	9
Miscellaneous taxes	2
Nontax revenues	5
Total	100%

For the future, the Commission recommends that the property tax percentage be reduced from 54% to 42%, and that other taxes be increased accordingly. The model structure suggested by the Commission would be as follows:

Property taxes	42%
Personal income tax	21
Consumer and transaction taxes	21
Business taxes	9
Miscellaneous taxes	2
Nontax revenues	5
Total	100%

These percentages would be written into the tax laws of the Commonwealth to serve not only as an indication of overall state and local revenue policy but also as an effective control, so that the overall structure would closely approximate the model in future years.

In the same manner, the revenue policy statute would specify which of the taxes levied by the state and/or local governments would comprise each of the above categories of revenue sources and the proportionate contribution to be made by each tax to the total for each category.

The administrative mechanism by which these statutory percentages would serve as a future control is spelled out in a later recommendation.

Recommended Realignment of Responsibilities for Collection and Distribution of Revenues.

The Commonwealth has delegated to the governments of the three hundred and fifty-one cities and towns the responsibility for carrying out certain governmental functions, mainly in the fields of education, public safety and public works. The unequal ability of these cities and towns to provide the required services is of great concern to this Commission.

To meet the cost of local expenditures, the Commonwealth has limited its cities and towns to one tax source only, the real and personal property tax (including the motor vehicle excise). In addition, there are available certain nontax revenues, some federal aid and a state aid program currently providing approximately $380 million.

But, even with state aid of this magnitude, the property tax (including the motor vehicle excise) accounted in fiscal 1970 for a total of $1.54 billion or 81% of local expenditures, and even more significantly, 71% of the total revenue of all cities and towns.

But the burden of the local tax, oppressive as it is, is not its worst feature. Even more unsound as a matter of fiscal policy is the fact that the spending needs of the cities and towns vary widely and with no relation to differences in the tax base.

Some communities have a capacity to support their spending for each individual they are called upon to serve which is four or five times as great as in other communities whose service obligations are the same or less. Stated in another way, for similar per capita expenditures, certain communities because of their proportionately small tax bases are required to impose tax rates four or five times as great as others providing the same level of services.

This situation of excessive overall burden and grossly uneven distribution on an individual city and town basis is further aggravated by the fact that the local property tax is a residual tax, that is, one utilized to meet all local revenue needs not otherwise met. As such, it increases annually not in proportion to local spending increases, but to that extent and to the extent additionally that other local revenue sources including state aid fail to keep pace with such increased expenditures.

State aid to local governments has tended to reduce to some extent the disparity between communities. The school aid formula in particular was designed specifically for this purpose. But, there is a multiplicity of other programs approaching school aid in aggregate dollars. These are simply shared programs with the state aid amounting to a uniform percent of total expenditure without regard to local ability.

The Commission has been studying a plan under which current responsibilities for collection and distribution of revenues would be completely realigned. This would be done in a manner which will reflect

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a more realistic appraisal of what are presently the relative responsibilities and functions of government at the state and local levels. Such a realignment of responsibilities would provide that within the stated revenue policy percentages described above (1) the state would levy sufficient taxes so that combined with other revenues it could appropriate annually to a Local Aid Distribution Fund an amount equal to some stated percentage (possibly 80%) of the total expenditures of all local governments during the fiscal year, and (2) in order for the state to collect a sum sufficient to make this distribution, the state be authorized to levy a state property tax, which would be assessed on an equalized (or actual full and fair cash value) basis, billed along with the local tax, collected locally and remitted to the state. The formula by which this very greatly increased amount of state aid would be distributed and the details of the property tax suggestions are described below.

Proposals for a Revenue Policy Commission.

If the suggestions of the Commission with regard to the adoption of statutory percentages for each category of taxes and for each tax within each category are accepted as a desirable statement of future revenue policy, there must be established an administrative mechanism which will annually review the revenues received from all sources and provide for the necessary rate changes in each tax in order that the proportions received from each source annually will conform to the recommended model. From the Commission's viewpoint, only a temporary benefit will be received if tax revisions are made which will for a year or so achieve the goal of reducing the percentage of all revenue received from the property tax if no control is established to insure that the revenue policy

which initiated such reductions becomes a permanent policy and one which can be changed only after public discussion and legislative debate and vote.

The administrative control mechanism which the Commission is exploring is a Revenue Policy Commission.

The Revenue Policy Commission being considered by the Commission would be a permanent agency of the state government composed of seven members: the Governor, the President and the Minority Leader of the Senate, and the Speaker and the Minority Leader of the House of Representatives, ex officio, or their designees, and two additional members chosen by the first five, one the mayor of a city and the other the chairman of a board of selectmen of a town. Not more than four members could be of the same political party.

The powers and duties of the Revenue Policy Commission would be as follows:

(1) To carry on a continuing program of research in revenue needs and production, with statutory authority to require submission of information by state agencies and cities and towns according to standardized reporting systems;

(2) To make annual recommendations with regard to any change in the percentage of total revenue to be obtained from each category of revenue sources and from each individual source within each category;

(3) To make necessary changes in rates of taxes for the ensuing fiscal year, in order to conform to the

preestablished revenue structure, which changes will be submitted to the General Court and will have the force of law unless disapproved by both branches acting separately within thirty days after the convening of the General Court;

(4) To certify the amounts to be appropriated from the state's General and Highway Funds as a transfer to the Local Aid Distribution Fund; and,

(5) To certify the amounts to be received by each city or town under the local aid distribution formula.

The Property Taxes.

In order to meet its own spending needs and to provide the distribution to local government, the Commonwealth would need to employ not only the tax sources presently available to it but part of the property tax as well. This part of the property tax, it is proposed, would be used on a state-wide basis at such a level that, combined with the local property tax, would produce an amount equal to the proportional share allocated to property taxes by the proposed revenue policy statute.

This is the major change in property taxes which is being considered by the Commission. It has, of course, an historical precedent in the "state tax" which was levied on the cities and towns, and included as part of the total amount to be raised locally, until 1947. The important difference between the Commission's plan and the former "state tax"--which was also raised through the property tax on an equalized basis--is

that in the past the "state tax" was levied to finance state government costs, whereas the state property tax proposed by the Commission would be part of the revenues which would be collected for redistribution to the cities and towns as state aid.

The state property tax thus levied would constitute by far the greater portion of the total property tax which would be paid by the individual property owner. The local tax would be on an aggregate basis the amount required, after local nontax revenues and federal aid, to finance the remainder of the cost of local government not covered by distributions of local aid.

The suggestions made herein would not be affected by the possible adoption of the proposed constitutional amendment permitting classification of property based on use for local tax purposes. The adoption of that amendment would open the way to consideration of further changes in the property tax system.

State Property Tax.

Within the overall system being considered by the Commission, the state property tax would be set annually at a rate which when combined with the local tax, would yield approximately 42% of all revenues. The proceeds from this tax would be credited to the General Fund along with all other taxes and revenues except those earmarked for the Highway and other funds. The General Fund would then finance the state's expenditures and the transfer to the Local Aid Distribution Fund.

The Local Property Tax

That portion of the property tax which would be raised locally would, under the Commission's proposal, be used for local purposes--to pay

for services to property by the local governmental unit. The Commission therefore suggests that all real property in a city or town pay some tax, except property of the United States Government which cannot constitutionally be taxed, churches, cemeteries, and other property which serves primarily the citizens of the individual community. This could be accomplished in the following manner:

(1) Owners of residential, commercial, and industrial property, except those determined to be hardship cases, would pay a tax at the local rate on land and buildings, including those now receiving what might be called personal exemptions--widows, veterans, the blind, and the elderly;

(2) Institutions currently exempt from property taxation--charitable, educational, literary, scientific, benevolent and others--could be taxed at the local rate on the value of their land but not buildings;

(3) In a similar manner, the state, county, and municipal governments and possibly authorities would be required to pay the city or town a tax on the value of their land located in each community, but again not on buildings. In the case of the state, this would be a replacement for the present reimbursement for state-owned land;

(4) Forest lands and the property of urban renewal and limited dividend corporations would continue to be taxed in a special manner.

In addition, the Commission is considering a proposal that all personal property, except home furnishings in a permanent residence and except property presently subject to a state-levied excise, be taxed at the local level. Subject to resolution of certain constitutional problems, this could in addition include such property now exempt as inventories and machinery of manufacturing corporations, which in turn would be removed from the property base of the corporation excise.

Certain kinds of property--particularly the property of public utilities--are difficult to assess locally, and the present system of having some property assessed locally and some assessed by the State Tax Commission is both illogical and inequitable. The Commission therefore might propose that the property--other than real estate--of electric systems, telephone systems, gas pipe lines, railroads, and other utilities be assessed at the state level and that each city or town be advised annually of the assessed valuation of that part of the system located therein.

Exempt Property

The Commission suggests that the exemptions now granted charitable, educational, literary, scientific, and benevolent institutions might apply against the state property tax, but not the local. This would mean that the cost of exempting these institutions because of their social value would be spread across the state rather than at present only in the town in which they are physically located. Thus, a community which now bears no cost for the exemptions granted a hospital, an university, a library, or charity but whose citizens make use of such facilities would be bearing part

of the cost of such exemptions. On the other hand, the communities which actually perform some services for the institutions--such as fire and police protection--would receive some revenues to offset the costs of such services from the local tax on the assessed value of the land alone.

Personal Exemptions

It is proposed that the exemptions now granted to individuals such as widows, veterans, the blind and the elderly apply against the state tax--except for exemptions granted because of financial hardship, which would apply on both the state and local level.

The same argument applies here that applies in the case of institutions. The exemption is being granted either because of financial hardship, because of widowhood, physical incapacity or age--and is not related directly to the city or town in which one resides. Therefore, the cost of relieving such persons of part of their tax responsibility should be borne on a state-wide basis--and the local tax would apply except in cases of financial hardship.

Actually, a plan might be considered which ceased to treat this tax relief as an exemption from property taxes but would instead provide tax relief through a direct housing subsidy for all widows, veterans, blind and elderly who qualified. Thus, persons who now receive no assistance because they are rent payers or dependent on others for housing but who are in identical circumstances could receive a similar subsidy. If such person were already receiving a housing subsidy through some form of public assistance, this could be taken into consideration and there would be no duplication.

State-levied Excises in Lieu of the Personal Property Tax

It is proposed that certain personal property now subject either to the personal property tax or motor vehicle tax be exempt from both the state and local tax and subjected instead to a state-levied excise. This would mean that the state would collect the motor vehicle excise as well as determine the value as presently. Also, such other kinds of personal property which is now either difficult to assess or to locate--such as boats, airplanes, mobile homes, and travel trailers--would be subjected to a similar excise. Payment prior to registration would facilitate collection of these excises.

Property Tax Administration

The property taxes envisioned in this recommendation would be administered by basically the same agencies or officials as at present. Assessments would be made locally by local assessors. But we propose: (1) that a program of state supervision, training and certification of local assessors be instituted immediately; (2) that the salary of the positions of assessors be increased commensurate with the training required; and (3) that all current assessors be given the opportunity to avail themselves of this training.

The state, in turn, would continue to determine the equalized valuation for each community. But we propose: (1) that a much more accurate and complete equalization be determined than can be done presently with the limited number of personnel assigned to this function; (2) that the most modern methods and equipment be employed in the reporting and development of data for such equalization; (3) that the personnel involved receive at least the same training as that given local assessors with such

additional training as might be required; (4) that current personnel be given the opportunity to avail themselves of this training; and (5) that there be close coordination between local assessment and the determination of equalized valuations.

It is suggested that both the state and local property tax be billed at the same time on a two-part bill which would clearly show the local assessed value, the local rate, and the local tax due and the equalized assessed value, the state rate, and the state tax due. The local collector would then collect both taxes and periodically remit to the state treasurer state tax collections on hand. Also, the double payment system already in the new fiscal year law would apply to both taxes.

The Personal Income Tax.

The present tax on personal income is perhaps one of the most inequitable and inefficient taxes in the entire tax structure. Because the tax is levied at different rates on different classes of income, it falls most unevenly on taxpayers with identical incomes from different sources. Also, large amounts of income from some sources--such as interest on savings deposits in any bank and net rental income--escape taxation altogether, thus making the present tax even more unfair.

In addition, it would be difficult to devise a tax which causes more problems in taxpayer compliance. The tax return required of a taxpayer ineligible to file a short form because of the size or source of his income is complicated unnecessarily by the classified nature of the tax and the fact that exemptions and deductions apply against some classes of income and not others.

Finally, enforcement of the tax is hindered, especially any effective use of the exchange of information possible with the Internal Revenue Service.

For these reasons, it is suggested that the present tax be revised in several ways:

(1) That all kinds of income be subject to the tax;

(2) That the tax be levied at a uniform rate, without regard to source of income;

(3) That the Massachusetts return be simplified and compliance facilitated by requiring the taxpayer to show gross income figures required on his federal return;

(4) That certain kinds of income which cannot be constitutionally taxed, such as interest on federal securities, be deducted on the state return and that certain income not taxable federally be added to the income figures;

(5) That there be applied against the gross income thus determined, an exemption which would diminish with the level of total income.

The Commission believes that the foregoing would result in a progressive tax; one with a much simpler return and the possibility of most taxpayers being able to file a short form; one which can be easily enforced through the exchange of information with the federal government; and yet one which does not tie the Massachusetts tax directly to the federal tax but retains in the Commonwealth the basic decisions as to which income will be taxable or exempt.

The Commission is concerned about the extra burden borne by taxpayers who pay to send their children to nonpublic schools while contributing to the support of the public schools through their local taxes. The solution which the Commission is considering, assuming that there is no constitutional obstacle to it, is to give the parents a fixed credit against their income tax for each child actually attending a nonpublic school.

Nothing in these recommendations is incompatible with possible future constitutional changes to allow a graduated income tax.

The Consumer and Transaction Taxes.

Within the proportion of the total revenue which must be derived from consumer and transaction taxes, the Commission suggests the following course of action with some alternatives.

The first step which should be taken is the imposition of the retail sales tax on certain articles which were subject to special excise taxes prior to the enactment of the retail sales tax on April 1, 1966, i.e. motor fuels, cigarettes, and alcoholic beverages. The reasons for this decision have been well expressed by the leading writer on the retail sales tax, John F. Due, State Sales Tax Administration, pp. 193-4.

> "The most unfortunate of all the major exemptions is that of goods subject to special excises. The purpose of the exemptions has been to avoid a form of 'double taxation,' the taxing of one commodity by two different taxes. Actually, there is no justification for such exemptions and there are some very good reasons for not providing them. If the excises were regarded as justifiable prior to the use of the sales tax, there is no reason why the relative burden on these commodities should be reduced when the sales tax is introduced. If the combined burden is regarded as excessive, the downward adjustment should be made in the excises, not by exempting items from the sales tax. This kind of exemption complicates the operation of the sales tax. Vendors must insure that the tax is not applied to the items and must therefore keep a separate record of their sales. This is often not done accurately, audit is complicated and made more time consuming, and the way is paved for some outright evasion. It is far more satisfactory to apply two taxes to the same item than to exempt it from the general levy. This argument is particularly relevant to cigarettes, which are sold by very large numbers of vendors, many with poor records, and virtually all of whom sell other goods as well. But it also applies in large measure to liquor and gasoline."

For purposes of administrative simplicity, the Commission feels that the present special excises on meals and room occupancy, now imposed at the rate of 5.7%, should be brought under the retail sales tax, even though this would mean some loss of revenue. There would seem to be no reason in equity why these two items should be subject to discriminatory rates. Furthermore, bringing these items under the general retail sales tax would qualify taxes on them for deductibility under the federal income tax which is not presently the case.

An additional item which is not presently subject to any tax, alcoholic beverages consumed on the premises, would seem to be an appropriate subject for taxation. While such beverages, if consumed as part of a meal, are presently subject to the meals excise, they are not taxable if no meal is involved. There seems to be no logic in this exemption, and its elimination would reduce the revenue loss resulting from transferring the tax on meals from the present special excise to the retail sales tax.

With the revenue from the sales tax thus increased, if additional revenue is still required to make up the total proportion from the category of taxes there are two courses of action possible: (1) extending the retail sales tax to sales of certain kinds of property or certain transactions not now taxed; (2) increasing the rate of the tax.

Sales or transactions which might be taxed are: (1) disallowance of the trade-in value on purchases of motor vehicles, boats, and airplanes; (2) machinery and equipment used directly in manufacturing, etc.; (3) utility services, gas, electricity, water, telephone; (4) certain personal services, such as repair and installation charges, professional services, amusement

and recreation services; (5) apparel; and (6) food.

In addition, the Commission recommends an increase in the motor fuels tax, not only because the current rate is relatively low but because this would provide funds for the Highway Fund which could be transferred to the Local Aid Distribution Fund for aid to cities and towns for highway purposes.

The Business Taxes.

The Commission's basic concern in this area is that this category of taxes especially, but also the entire revenue structure in general, contribute in every way possible to bolstering the economy of the Commonwealth, encouraging commercial and industrial expansion, and creation of new employment--especially in the failing manufacturing sector of the economy. Therefore, it has been urged that the proportion of total revenues from this source not be increased. However, certain changes in taxes within the overall category are worth considering.

One change which is under consideration is that all excises levied for the "privilege of doing business" be measured by some measure of net income allocated to Massachusetts and that present taxes measured by deposits, tangible personal property, or premiums be discontinued. There are two arguments for this proposal: (1) the business, whether it is a business or manufacturing corporation, a commercial bank, a savings or other thrift institution, or an insurance company, would pay a tax only if and to the extent that it was in fact a profit-making venture; (2) if personal property is to be taxed locally, if the proceeds from intangible property--savings deposits--are to be taxed as income, or if machinery and equipment are to be taxed under the sales tax at the time of purchase, then the necessity of measuring any part of the business excise by such property is diminished.

The argument that the state needs these measures as a stable source of revenue in times when net income falls off is of doubtful validity when the small proportion of total revenue which is received from this source is considered.

A major change in which this proposal would result is the manner of taxing insurance companies. The Commission certainly has no desire to further complicate the present situation in the insurance field in the Commonwealth. However, it is felt that taxing insurance companies according to a definition of net income--as does the federal government--is preferable to one based on premiums. Also, it would be extremely difficult to work a premium tax into the automatic rate changes contemplated by the revenue policy statute. In the case of an increase in the premium tax rate, the retaliatory provisions of the laws in other states would have an adverse effect on the taxation of Massachusetts companies.

Miscellaneous Taxes.

With respect to the inheritance tax, and taxes on horse and dog racing and proposals for new taxes from legalized off-track betting, the tentative views of the Commission can be summarized with relative ease, although certain specific numbers and other details remain to be supplied after further research.

Inheritance Taxes

Consistent with the views of the prior Special Commission on Taxation and the recommendation in its report of April, 1955, the present Commission is disposed to recommend that the inheritance tax be abolished prospectively as of the date the new law is effective, and that as to all decedents dying thereafter an estate tax be substituted. It would,

if this concept be the final recommendation, further be proposed that the present exemption as to domiciliary real estate held as tenants by the entirety be eliminated, and that there be incorporated in the new law a true exemption (in a dollar amount not presently determinable) and a marital deduction. Subject to certain necessary adjustments (as to real estate outside Massachusetts, for example, as to which the Commonwealth has no jurisdiction as to residents, and a converse problem as to non-resident estates), the gross reportable figures would be taken directly from corresponding figures on lines of the federal estate tax return, in estates calling for such a return.

It will probably further be recommended that for estates of decedents dying before the effective date of the amendatory legislation an incentive, in the form of some stated percentage discount from the tax as otherwise computed, be introduced to encourage prepayment on a discounted basis of taxes on future interests.

In general, the proposal would probably follow the federal law as to treatment of powers of appointment and similar refinements, with certain qualifications possibly to be incorporated, as suggested in the report of the prior Commission, to avoid retroactivity.

Unlike the prior Commission, we are inclined to recommend adoption of a gift tax, with rates and exemptions so keyed as to yield roughly two-thirds of the burden of the estate tax.

Detailed presentation of these concepts must await the drafting of proposed specific legislation.

Racing Taxes

We presently contemplate no recommendations for significant change in the taxes on horse and dog racing. Obviously, Massachusetts must follow and study with interest the experience of England, and more recently of New York State, with various forms of taxation on legalized off-track betting. At the moment we believe the experience and data as to problems and yield are too fragmentary to permit a specific recommendation.

In summary, it may be said that we look for no significant increased relative yield from these taxes, although there will probably be dollar sum general and proportional increases attributable to inflation and decreased value of the dollar. Massachusetts already relies on death duties for a larger proportion of its total tax collections than all but a few of the other states, and it would seem unwise to increase that relative dependence. The proposals in the area of a shift from inheritance tax to an estate and gift tax are aimed rather at reducing the administrative and collection burden, at facilitating audit and control, and at conforming more closely to the federal structure and philosophy without yielding the Commonwealth's prerogatives in respect of social policy to federal domination and control.

Nontax Revenues.

Within the amounts of revenue required from this category of revenue, the Commission suggests several changes: (1) that certain licenses, fees, and other charges be increased in order that the actual cost of the charge for service performed be recovered; (2) that fees charged by registration and regulatory agencies be set at amounts which

would make such agencies self-sustaining; (3) that proper enforcement be maintained of family support and third party payments for patients in state institutions and that adequate personnel be provided in agencies concerned to perform this function; and (4) that registration fees for motor vehicles, particularly for trucks and trailers, be increased to at least the average fees for such vehicles nationwide.

Distribution of State Aid to Cities and Towns.

The proposals of the Commission with regard to the revenue policy statute, the creation of a Revenue Policy Commission, and revision of present tax laws would result in the state government receiving initially by far the major share of total state and local revenue. Each city or town would have the local share of the property tax available for its purposes and would receive from the Local Aid Distribution Fund a share of state tax revenues. All state revenues (including the state share of the property tax but excluding highway-use taxes) would go into the General Fund for appropriation for state purposes and for transfer to the Local Aid Distribution Fund--without regard to source. Also, some portion of the proceeds of the motor fuels tax would be credited to the Local Aid Distribution Fund. The amounts transferred would be equivalent to a stated percentage of the cost of local government in the preceding fiscal year.

The funds thus available for distributions as state aid to cities and towns would be distributed as follows:

A. School Aid

1. Amounts determined as due under the School Building Assistance Program.

2. An amount per child in average daily membership equal to 90 percent of the average cost per child in the Commonwealth for the preceding fiscal year, or, if lesser, the amount per child actually expended during the preceding year.

B. Highway Aid

Amounts transferred from the Highway Fund would be distributed to meet a share of local highway costs--on a formula based on several factors including but not limited to road mileage and population.

C. General Government Aid

The balance remaining after payment of school aid funds and highway funds to each city and town in proportion to its population, or according to other relevant factors.

In developing an equitable program for the distribution of significant amounts of state aid from the Local Aid Distribution Fund, certain considerations had to be kept carefully in mind.

First, the plan had to provide a strong incentive for careful and prudent spending policies at the local level. Second, although the education function of local government absorbs approximately 50 percent of local spending in the aggregate, the proportionate spending by larger communities on non-school functions tends to be substantially larger than in the smaller communities. Third, it is a matter of long-established Massachusetts public policy that educational needs shall have primacy of claim on available public funds.

In the light of these considerations, the program as recommended provides for no distributions of any kind based on fixed or varying percentages of actual expenditures. As to the school aid formula, actual expenditures of an individual community may become relevant, but only as an upper limit if they fall below the state per capita average. While the

Commonwealth would be committed to raising, by state-wide taxes, the prescribed percentage of the total cost of local government in the preceding year, the maximum available share of each particular community would depend, not on its own expenditures, but on its objective needs as measured by its school population, and its total population, or other relevant factors.

With respect to the school aid measure, it is intended that each community shall have available to it from state funds, the full amount required to meet a basic minimum standard of acceptable educational programming, beyond which point it would provide for itself out of its own property tax.

As to general government, the same would be true. The share of each community in the residue of the Fund would be exactly the same on a per capita basis, except as other factors may be introduced. Its expenditures beyond that level for general government would be entirely at the expense of its own property taxpayers.

The formulae for distribution here presented are elementally simple and designedly so. Far more complex provisions have been adopted in the past with the laudable objective of achieving greater equity in proportion to their complexity. It is not demonstrable that such plans have achieved their purpose, particularly those with built-in incentives. To the contrary, incentives to spend, particularly for education, have more often than not merely brought additional state funds to the communities least needing them.

The proposed program is one attempting to meet the basic minimum needs of all local governments for school and non-school purposes through the equitable device of state-wide taxes, leaving to the local decision and local expense the provision of government service beyond that point. It is offered as one resolving, as far as practical, the inequities necessarily resulting from a fragmentization of government into three hundred and fifty-one independent pieces.

Appendix 6

ITEMS PERTINENT TO THE HEARING OF SEPT. 30, 1971

Material Supplied by the Witness

FROM RALPH NADER

PROPERTY TAX NEWSLETTER

Published by Public Interest Research Group 1025 15th Street N.W., Washington, D.C. 20005 April 1971 VOLUME I NUMBER 7

CONGRESS CONSIDERING PROPERTY TAX RELIEF FOR LOW-INCOME ELDERLY

Congressman Henry S. Reuss (Dem.-Wis.) has introduced a bill into the House of Representatives that will provide some relief from property taxes for low-income elderly. The bill, H.R. 6883, is designed to allow either a credit or refund of federal income taxes for a percentage of the property taxes paid by elderly home owners or renters. In order to qualify for the credit or refund, the person must be over 65 and have a total yearly income of less than $3,700.

The plight of the low-income elderly taxpayer is well known. These citizens often pay as much as one-third of their total income in property taxes. Many are being forced out of homes that they worked and paid for years ago but can no longer afford to keep.

H.R. 6883 will provide relief by permitting those who qualify to credit up to 75% of their property taxes against their federal income tax. If the citizen qualified but does not have any income tax liability, he will be entitled to receive payment from the federal government for the amount he would have received as a tax credit if he had been liable for taxes. For example, if a qualified person would be entitled to a $100 deduction from income taxes but did not have sufficient income to have any income tax liability, they would receive a check for $100 from the federal government.

According to Congressman Reuss, "The refund or credit is intended to offset only that portion of the property tax that is well in excess of what can be considered a fair burden. It works like this:

"Property taxes are considered unusually high if they exceed a certain percentage of household income. This percentage increases as household income increases. After determining the amount of the tax which is excessive, 75% of this amount is credited or refunded."

The formula used to determine the precise amount that a person may deduct is quite complicated. The following table lists the size of the credit or refund which, if the bill is passed, will be available in some representative cases:

Property Tax	Total household Income	Credit or Refund
$100	$1000	$63.75
$200	$1000	$138.75
$300	$1000	$213.75
$100	$2000	$7.50
$200	$2000	$82.50
$300	$2000	$157.50
$100	$3000	$0.00
$200	$3000	$0.00
$300	$3000	$56.25

In order to prevent abuses, the bill provides that the applicant must list all forms of money income. This includes nontaxable income, such as social security, veteran's disability benefits, public assistance payments, and railroad retire-

(cont. col. 2, p.2)

SUBSCRIPTION POLICY CHANGED

A change in the subscription policy of the Property Tax Newsletter was announced in last month's Newsletter. Those interested in continuing to receive the Newsletter should be sure to read the explanation on page 4.

ATLANTA REAPPRAISAL VOIDED IN COURT SUIT

A class action lawsuit by 5 property owners in Fulton Co., Ga., has resulted in a court order voiding a reappraisal conducted in that county by the mass appraisal firm of Cole-Layer-Trumble. The effect of the court order is to require the City of Atlanta, Fulton Co., the city and county school boards of 9 other local governments must base their 1971 tax levies on last year's assessments.

The reappraisal was the result of a 1968 $1.2 million contract with the Cole-Layer-Trumble Co. for a reappraisal of the 185,000 pieces of property in Atlanta and Fulton Co., the first complete reappraisal in the area in 15 years. At present, public officials have not indicated an intent to appeal the court decision.

The lawsuit was based on two theories: that the County Tax Assessor Board could not legally delegate their responsibility to the firm and that the appraisal itself was defective because of inequities between properties. In its opinion the Court agreed with the citizens in both contentions. The Court stated:

> . . .[T]he Board [of Assessors] cannot under law supplant its own judgment by adopting the appraisals made by the engineering specialists. The Board may use such appraisals to assist it in making revaluations of taxable property, but the law contemplates "use" to mean the forming of independent judgment based upon studies of the subject appraised properties. . . .
>
> Because there exist innumerable inequities and lack of uniformity growing out of the reappraisal . . . if the Board should approve the appraisals of Cole-Layer-Trumble and enter assessments based upon the appraisals . . . there would be a clear and affirmative showing that the difference existing is an intentional discrimination.

Thus, the Court held that, because of inadequacies in the appraisals made by the firm, it would be illegal discrimination for the Board to rely on the firm's work in making their own reappraisal. Even under the Court's own standard of limiting the Board's use of the mass appraisal to aiding in the Board's own judgment of value, the Board may not use the Cole-Layer-Trumble reappraisals because of inequities within it.

The Atlanta action is the second court victory by property owners in recent weeks. In Fort Wayne, Indiana a similar court order was issued in a citizen's class action suit voiding a reappraisal done in that area by the same Cole-Layer-Trumble firm. In both suits, the courts found that the public officials could not properly delegate their official duties to a private firm and that the reappraisal conducted by the private firm was defective. In the Fort Wayne suit, however, the Court permitted the use of the reappraisal during the current year because the local governments had relied upon it in compiling the current year's tax digest.

(PROPERTY TAX RELIEF, from p. 1, col. 2)

ment benefits. In addition, the bill limits to $330 the amount of property taxes that can be used in computing relief. Thus, if a householder has property tax payments of $400, he can only use $330 of that in computing his refund or credit in the above table.

The bill is closely modeled on Wisconsin's Homestead Relief Act, which was passed in 1964. In fiscal '70, it provided tax relief of $7.2 million to 74,000 low-income elderly families, an average payment of about $97. The total relief granted was less than one per cent of total property tax collections in that state.

Those interested in this bill may receive copies from Rep. Reuss, 2159, Rayburn House Office Bldg., Washington, D.C.

NEWS NOTE

ILLINOIS: An Illinois court has held that an 1855 special charter under which Northwestern U.'s commercial properties have been exempt from real estate taxes "denies equal protection of the law", at least to other universities not receiving similar treatment. The local assessor estimated that, as a result of the decision, the local government would receive an additional $160,000 in tax revenues annually.

INVESTIGATIVE REPORTING:
AN IMPORTANT TOOL IN DISCLOSING
PROPERTY TAX INEQUITIES

During the last 9 months, 3 major newspapers in widely separated parts of the country have disclosed, through investigative reporting, serious inequities in the administration of the property tax in their localities. Through detailed research and interviews by reporters, these newspapers put together accounts of maladministration ranging from simple inefficiency to virtual criminal conduct.

Unfortunately, it is often impossible to find a newspaper willing to print stories revealing favoritism in property tax administration. The reasons for this vary but are often tied to the fact that influential members of the community--sometimes the papers themselves--are beneficiaries of preferential assessment. Citizen groups can encourage newspapers to provide aggressive and objective coverage of property tax breaks. Providing the reporters with leads and information that the groups have developed will enable the reporter to do much more complete reporting. This also aids the novice reporter in his initial involvement in the complicated area of property taxation.

Examples of the result of investigative reporting are included in this issue of the Newsletter in the following articles reviewing the results of recent reports by a New Jersey and a Massachusetts paper. Citizens are urged to contact their local papers or reports to encourage their involvement in investigative reporting of property tax inequities.

"Boston Evening Globe Discloses Inequities in Sommerville"

In a copyrighted article, the Boston Evening Globe reported an in-depth investigation of the assessor's office in Sommerville, a Boston suburb. The Globe investigation revealed that:

--An assessor received a half interest in acres of prime suburban land after giving its owner several abatements--tax reductions based on "overvalue" of property.

--The assessor paid "less than $100" for the suburban property according to the deed, and it later sold for $112,000.

--Another Sommerville assessor assessed his own brother's business and defended his action by pointing out that other board members assessed their own homes. He told the Globe he thought this was "perfectly all right."

--Five parcels, "secretly" abated in 1966, were discovered this year entirely by accident. The assessing board chairman at the time now insists it "didn't happen" because he would remember anything over a "few bucks". The potential tax loss is $310,072.

--One large retroactive abatement was granted last year in a closed meeting, without the knowledge or vote of the board's own chairman.

--A former city official who served as the assessment department's lawyer, started from scratch 6 years ago and has amassed property amounting to about $2.4 million on paper.

--The Woodbridge Inn, owned by a former mayor and assessor's brother, has a paper value of more than $800,000, yet is assessed at $50,000.

--The president of the Woodbridge Corp. is a former mayor who is also vice president of 2 merged National Banks that lent his enterprise $750,000, a possible abuse of depositors' funds, since the loan exceeds the value of the property.

--In a straight quid pro quo, the board allowed a former alderman's renovated apartment to be assessed at $2,000 after the official had pubhsed a 150 per cent pay increase for the assessors.

The article identified the assessors involved in each of the transactions and the developers or businessmen who received the preferential treatment. The paper concluded that, based on their random sample of 9 dubious abatements and gross underassessments, Sommerville had been deprived of $101,173 in taxes in a 4-year period.

"Daily Advance Reveals Inequities in New Jersey Town"

The Daily Advance of Dover, N.J., in a series of articles that ran almost a month, disclosed gross disparities in assessments of residential property within Morris Co. The series also probed the serious difficulties taxpayers encountar when they try to appeal their assessment.

One of the problems highlighted by the articles was the differing standards of assessment within the county. Assessors in one community, for example, operate on policies that result in exemptions for certain fixtures and improvements, while on a similar property in an adjoining community, the assessor operates on completely opposing policies. The report stated:

> Under the present assessing system, each community may differ sharply on judging the value of the house. There is no protection against inequities for the owner when it comes to paying his portion of the county tax load.
>
> No one, however, has the job of insuring that the individual homeowner in one community pays an equalized amount in county taxes in comparison with those paid by the residents in another Morris County community.

Another problem discussed in the articles is the underassessment of large tracts of land. Land which is bought for speculative purposes, it was shown, frequently is held under low assessment for years, even though it has been approved for subdivision. In one case, a large parcel had been approved for a major housing project, yet was still being assessed as undevelopable property, resulting in a discount of up to 50% of the fair market value of the property.

Some examples of disparities found by the Advance include: two houses assessed at the same value but with differences in sales prices of almost $18,000; a $3000 disparity in the assessment of two houses with the same sales value but located in different communities; a list of free improvements in one area of the county which are considered taxable items in other parts of the county.

In response to the articles, Mayor James Sprow announced that a committee would be formed to review proposals from four firms in order to get a reassessment under way as soon as possible.

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SUBSCRIPTION RATES TO CHANGE

As of May 1, 1971, the following subscription rates for the Newsletter will be in effect on an annual basis to cover production costs:

Individuals	$2.00
Business & Professional Firms	$3.00

Individuals and firms who have already paid the $3 rate will continue to receive the Newsletter until their year's subscription expires. Individuals who have been receiving the Newsletter at no cost should send $2 by May 1 in order to remain on the mailing list. Firms which have been receiving the Newsletter at no cost should send $3 by May 1 in order to remain on the mailing list. If you are not now a subscriber, or you are presently receiving the Newsletter at no cost, please fill out the form on the last page, if you wish to receive the Newsletter after May 1.

HOUSE RECEIVES BILL TO RELIEVE PROPERTY TAX OF EDUCATION COSTS

Congressman John G. Dow (Dem-NY) has introduced a bill into the House of Representatives designed to encourage state governments to assume the costs of education, thereby relieving the local governmental units and the property tax of much of this cost. Under the bill, the federal government will reimburse each state for 50% of the increased cost above the local share which the state assumes from one year to the next.

The bill's formula is intended to reduce the local property tax by some or all of the 55% of the total nationwide cost of public schools which the property tax now bears. Under the bill's formula, the state would progressively assume more or all of the local school costs in return for a 50%, one-time, federal bonus in consideration for their action. This, of course, would result in a rise in state income or other tax levies.

Under the bill, in order for a state to qualify for the program it must be responsible for 50% of the educational costs (excluding federal payments) in the state at the time it applies for the program. For example, if the total revenues expended on education is $40 million and the state provides $20 million, it must increase its share in order to qualify. Thus, if the following year the state provides $30 million and the local government $10 million, the state would be entitled to $5 million from the federal government. If, during the following year, the state provides $35 million and the local governments $5 million, the state would be entitled to receive $2.5 million from the federal government.

Introducing the bill, Rep. Dow explained:

> My bill is directed at the local property tax which is a very inadequate and antiquated vehicle to use for the funding of our educational systems. Local people in many states like New York are seriously strapped by this tax. . . . I feel that this legislation would provide the required incentive to the states to pick up the education burden. The formula in the legislation allows a state to ease towards this goal or move much more rapidly. The key factor being that state tax dollars would be substituted for local tax dollars . . . . The local property tax under this proposal would then be freed for those local services such as police, fire, water, and sewer, roadways and other municipal services. In this way, I feel our citizens will better understand who is responsible at each level for providing the services.

Copies of the bill may be obtained from Congressman Dow's office, 238 Cannon House Office Bldg., Washington, D.C. 20515.

MINNESOTA TAX STUDY

The Minnesota Tax Study Committee recently released a study, conducted for it by Development Research Associates, on the tax structure of Minnesota. Some of the statistics garnered in the study which have relevance for other states appear below. Copies of the study may be obtained from Downtown Council of Minneapolis, 15 So. 5th Street, Minneapolis, Minn. 55402.

PROPERTY TAXES AS A PERCENTAGE OF INCOME FOR A FAMILY OF FOUR, $12,000 INCOME, $24,000 HOME (1969):

Atlanta	4.65%
Chicago	6.22
Dallas	3.79
Denver	4.44
Kansas City, Mo.	3.71
Milwaukee	8.42
Oakland	5.33
Omaha	6.19
St. Louis	5.14

PROPERTY TAXES AS A PERCENTAGE OF MARKET VALUE FOR A HOME WORTH:

	$10,000	$30,000	$50,000
Minneapolis	1.79%	2.62%	3.22%
Atlanta	1.30	2.17	2.35
Chicago	3.11	3.11	3.11
Dallas	1.67	1.95	2.05
Denver	2.23	2.23	2.23
Milwaukee	4.22	4.22	4.22
Kansas City, Mo.	1.78	1.78	1.78
Oakland	2.14	2.74	2.86
Omaha	3.10	3.10	3.10
St. Louis	1.82	1.82	1.82

VIRGINIA GROUP RELEASES STUDY--SHOWS DISCRIMINATION AGAINST HOMEOWNERS

A detailed study released this January by a group of Alexandria, Va. taxpayers demonstrates that substantial inequities between income-producing property and residential property exist in that city. The city assessor recently resigned his post, though denying his resignation had any connection with the study. In an attempt to justify its procedures, the city contracted with a private appraisal firm to perform an audit on the properties within the city. The resulting report, based on an evaluation of 643 properties, concluded that "the degree of uniformity within classes of the Alexandria assessments" were far better than in many cities in which the appraisal firm operates.

The taxpayers' report, on the other hand, covered nearly 1000 private homes, 23 garden-type apartments, 20 high-rise apartments, five high-rise office buildings, and two shopping centers. From a careful study of the information gathered about these properties, the group concluded that "the assessment of private homes is based essentially on sales in the surrounding areas, and that they are appraised at a far higher percentage of such sales than is the case with income-producing properties." The report went on to allege that "the result [of the methods used by the assessors] is that homeowners pay the maximum in real estate taxes, while income-producing property owners pay a minimum in real estate taxes."

The taxpayers' group discovered that the average increase in appraisals for 469 homes since 1965 was 34%, while the average increase for 12 apartments was only 2%. The report demonstrates that the average real property taxes paid by homeowners are 3 times greater than the average paid by apartment units.

The essential problem focused on by the report is the fact that the assessor applied different methods of determining fair market value to residential and income-producing property. The report stated:

> In the absence of bona fide comparable sales, the appraiser evaluating apartment and commercial properties may use one or more of several substitute methods, called "approaches" [to determining value]--reproduction cost, market, and income. There is no standard practice as in the case of evaluating private homes . . . . Just how the appraiser evaluates the results of the various "approaches" taken in appraising income-producing properties depends on the appraiser. Summarizing, it appears that all too often the practice is to take the lowest apprsisal possible, sometimes even lower than the lowest of any of the results by the "approaches". The present attitude of the appraisers seems [illegible] to act on income-producing properties as though they are income-tax consultants helping their clients, instead of being impartial appraisers of real property who are employed by the city.

The report documented serious disparity in treatment on appeals. The group reviewed over 400 decisions by the Board of Review during 1970 and found that persons holding lands for speculation received the most favorable treatment, business property owners the next most favorable, followed by slum landlords.

The report concluded with 10 recommendations to correct the situation in Alexandria:

(1) That the assessor's office be staffed with officially qualified professional appraisers and that their salaries be raised to levels competitive with the federal government;

(2) That all records be posted in ink, the appraiser identified, full information supporting the assessment be included in the appraisal, and all assessments be broken down to show, among other things, a value per square foot;

(3) That property appraisals over $200,000 be reviewed by a second appraiser and the assessor before final approval;

(4) That the city create an Assessment Audit Committee empowered to review assessment records on a periodic basis;

(5) That all assessment data be computerized as soon as completed;

(6) That all vacant land be assessed at its highest and best use and that zoning restrictions be discounted to the same extent that the current market discounts them;

(7) That the reproduction cost method of valuing property be given greater weight in determining value of income-producing property valued at $200,000 or more;

(8) That homeowners be represented on the Board of Review;

(9) That records of appeals with the names of appellants and the lot numbers be published in local papers;

(10) That the state legislature enact legislation to (a) require all owners of income-producing property to file statistical data necessary for a proper appraisal; (b) require all original land and improvement costs to be filed; (c) require the price of every sale to be included on the deed; and (d) grant a $5,000 homestead exemption.

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LEGAL CLEARINGHOUSE

Hamer v. Jones, No. 68 Mr4318, 19th Jud. Cir., family division, Lake Co., Illinois. Action to compel reassessment of real and personal property at the constitutionally required 100% of full market value. Allegation of discrimination between residential and commercial/industrial property as a result of assessments below full market value. No decision. Complaint available.

WALL STREET JOURNAL DISCLOSES PROPERTY TAX INEQUITIES

With leads provided by Ralph Nader and the Project on Property Tax Reform, two reporters for the Wall Street Journal began an investigation of inequities in the administration of the property tax in November. The results of that investigation appears in the April 5 Journal.

In addition to publicizing the tax breaks afforded industries in Savannah and Augusta (discussed in an earlier Newsletter), the Journal disclosed additional instances of industrial favoritism--in Gary, Indiana and California.

The Journal quoted the Calumet Township assessor as saying that his biggest customer, U.S. Steel, in effect present its own tax bill. According to the finance adviser to the city, the Journal reported, U.S. Steel has undervalued its Gary property by at least $110 million.

In California, where Tenneco Oil recently purchased 400,000 acres, the land is assessed for tax purposes at $280 an acre. The former owner of the land had it appraised by a private firm, just before the sale, at $2500 an acre.

I wish to receive the Property Tax Newsletter. Enclosed is my check or money order for ☐ $2.00 (individual) ☐ $3.00 (business, professional, or institution) (make payable to Public Interest Research Group).

Name ______________________ Address ______________________

City ______________________ State __________ ZIP CODE ________

NOTE: Please check the zip code on your present label. If it is missing, or if it is incorrect, please send us the present label with the correct code clearly written on it. Thank you.

PROPERTY TAX NEWSLETTER

Published by Public Interest Research Group
1025 15th Street N.W., Washington, D. C. 20005 June 1971 VOLUME I NUMBER 9

MUSKIE AGAIN ANNOUNCES HEARINGS

Senator Edmund Muskie, Chairman of the Senate Subcommittee on Intergovernmental Relations, has once again announced his intention to hold hearings on the need for property tax reform. This time the hearings are scheduled for early fall. The Senator is looking for field sites throughout the country in which to hold the hearings. All citizens who feel that an inquiry into property taxation is necessary are urged to write Senator Muskie, especially if they feel that their own area would be good for investigation. Those who want to recommend their own area should include as much supporting information as possible.

Remember that if concerned citizens do not come forward before and during these hearings with their views, substantiated by reliable data, Senator Muskie may hear only the "official" side of the story. Make sure he gets the truth.

All communications should be sent to:

Senator Edmund Muskie
Senate Subcommittee on
Intergovernmental Relations
Old Senate Office Building
Washington, D.C. 20510

A REQUEST:

Confusion has arisen in some cases over whether the Property Tax Newsletter supports the activities of the various citizens and groups who receive and correspond with the Newsletter and its staff. Because the primary purpose of the Newsletter is to promote the exchange of information and ideas and because the staff cannot be fully informed about numerous local issues, we ask that all individuals and groups refrain from suggesting they are connected with, or that they represent in any way, the editors or sponsors of the Property Tax Newsletter.

BELOIT: ON THE VERGE OF MAJOR REFORM

Within the next few weeks, Beloit, Wisconsin (pop. 36,000) may become the first city in the United States to adopt a complete "site" or land value property tax system. On June 7, before a crowd of close to 1500 people, the Beloit Chapter of the Wisconsin Property Owners League (WPOL) presented to the Beloit City Council a comprehensive 16-page plan consisting of enabling legislation, ordinances, and legal memoranda in support of the proposition. Specifically, the plan calls for a switch from the traditional tax on land and improvements to a tax on land only. In addition, the proposal would require the City Assessor to publish land value maps so that citizens can check for themselves the fairness of their own assessments.

The proponents assert that the plan will reduce property taxes for most residents, force revaluation of under-assessed vacant land, and, by eliminating the tax on improvements, encourage building and construction.

The City Council is due to vote on July 7. Passage is by no means assured. The plan faces formidable opposition from real estate interests, land speculators, and some businesses. But even if the Council fails to approve the measure, the Beloit Chapter has already accumulated enough signatures to force a voter referendum in November.

The success of WPOL is an inspiration to the many citizen reform groups throughout the country which have worked hard to remedy the worst abuses of the property tax. The WPOL experience indicates that the most important single factor achieving reform is the organization of many members on a grass roots level. Such an organization has the political clout to rouse local government out of its traditional inertia.

The League started in 1969 when a group of disgruntled taxpayers decided to do something constructive about the property tax in Beloit. First, they sent out 8,000 questionnaires to representative areas of the city. The response was overwhelming. Next the group appointed ward leaders who were responsible for soliciting members in each district of Beloit. Each ward leader had 12 ward "captains". No dues were collected except for a two dollar initiation fee. Most of the financing was accomplished by voluntary contributions.

The non-partisan, non-political approach of the League attracted a broad spectrum of the population. Professional men, blue collar workers, professors, business men, Democrats and Republicans all joined enthusiastically. By the end of 1970, the League had representatives with working organizations in more than fifty cities scattered throughout the State. The group had become so powerful that it threatened to invoke a statewide tax boycott unless the Legislature started to move on tax reform. Governor Lucey announced early this year that the State would undergo a comprehensive review of the property tax system, although he declined to speculate on the outcome.

The success of the Beloit Chapter can be traced largely to the energy and organizational ability of its leaders. For instance, they engaged the assistance of an economics professor from the University of Wisconsin. They hired a full-time lawyer. Most importantly, they

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dug into the assessment records of Beloit and found concrete evidence to support their assertions that the city property tax was being illegally administered. Some examples:

-Although State law requires land to be assessed at 100% of true market value as determined by highest and best use, the Chapter found over 3,000 acres of "farmland" held by speculators within the city limits assessed as low as 108 dollars per acre. Yet records showed the city had recently bought some of the same land at 2,000 dollars per acre.

(Cont. col. 1, p. 3)

SYSTEMATIC WAY TO CHECK LOCAL ASSESSMENTS

Many people have written in asking for suggestions on how to detect inequalities in assessments. An economist who assisted the Wisconsin Property Owners' League in Beloit, Wisconsin, offers this advice.

Assessment records should be broken down between land and buildings. Work with the land-assessment only: building assessments introduce many complexities and technicalities, while land-assessments are much simpler. Get tax maps from the appropriate local official (there may be a charge). Next, find the land-assessment for each lot from the assessment roll, and convert it into an assessment per-square-foot. The conversion to a per-square-foot value is important because it tends to put all parcels on a common denominator. Finally, write the figure onto the appropriate lot on the map.

According to the Wisconsin economist, assessments that are out of line will become readily apparent. The Beloit group found cases of gross underassessment. Gas stations, parking lots, and vacant land, they said, were prime recipients of assessment breaks.

Remember that this method gives only a rough approximation. Lot shape, location, and other special factors such as street frontage need to be taken into account. But it does enable citizens to detect where possible under-assessments and abuses might lie.

-Even though the Laird Co. (a mass appraisal firm, whose president is James Laird, brother of Secretary of Defense, Melvin Laird) had recently assessed the entire city of Beloit, the Chapter found numerous gas stations whose land was still carried on the roles as unimproved lots. The Chapter was unable to find out whether the Laird Co. or the City Council was responsible for the oversights, since both the Council and Laird have refused to offer their cooperation.

-Speculators holding vacant lots were assessed at only 20% of market value.

-Although the city passed a 2.5 million dollar bond issue in 1970 to underwrite improvements on residential lots, the Chapter found that there were already over 1,700 unimproved vacant lots within the city limits. Some of these lots had been standing idle since 1901. Because city law provides that the speculator need not pay taxes until the land is sold, there was no incentive to build on this idle land.

The League did have its critics. The City Manager of Beloit branded the League organizers "as phony as a three dollar bill". But not many people are willing to make that kind of statement anymore. Armin Jocz, Chairman of the Beloit Chapter credits the specific positive land value program as doing more than anything else to offset the group's initial "dissident troublemaker" image.

Many townspeople were won over to the cause when Chapter members pointed out that their proposal would cut property taxes for some residents by 20%, especially the elderly living on fixed incomes. In addition, the Chapter presented convincing evidence that total tax revenue would remain the same or even increase; "under users" of land, such as junkyards, gas stations, slum landlords, etc. would either have to sell out or relocate in a more suitable location; industry would be attracted by the absence of any tax on improvements; and the ecology would be helped by encouraging more consolidated land use.

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The Beloit plan is the culmination of two years of careful organization, meticulous research, professional study, and plain hard work. Many citizen groups, after years of effort, are now on the verge of seeing their own plans bear fruit. We hope they will take encouragement from the Beloit example.

For a copy of the Beloit Plan, write
Mr. Armin Jocz, Chairman
Wisconsin Property Owners League
424 College Street
Beloit, Wis. 53511

Please enclose two dollars for reproduction costs.

NEW YORK ATTORNEY GENERAL RULES ASSESSOR-REALTOR A CONFLICT OF INTEREST

In an opinion issued last December, Louis J. Lefkowitz, Attorney-General of New York, ruled that under the Geneva, New York, City Charter, ". . . a conflict of interest would exist where an assessor continues in the real estate business within the city while serving as its assessor." A conflict of interest would likewise exist, the opinion said, if an active realtor took on the duties of building inspector or zoning enforcement officer.

The case in point involved an appointed assessor who maintained a real-estate brokerage and management business with her husband. The assessor had been accused of using her office to enhance her business dealings, lowering assessments on her own buildings while raising assessments on those of her competitors. (In Geneva, the assessor is also the building inspector and zoning-enforcement officer, thus widening the possibility of misdoing.) The Geneva assessor resigned after the ruling became public, so its full legal effect has not yet been tested. Arguably, citizens could sue to compel an assessor to resign, or even to have all his official acts declared void.

The ruling will very likely be applicable to cities and towns throughout New York, since the relevant provisions of the Geneva City Charter had been

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incorporated from the standard code of ethics recommended by the State for local enactment.

Furthermore, the ruling may be of significance even outside New York State, since it stated that the common law was a possible alternative and separate ground: "In each instance where the assessor would act on the assessment of a parcel of property, and later participate as a broker in its sale, a serious common law conflict of interest might arise. . .If the assessor should retain the duties of building inspector and zoning enforcement officer. . .the common law conflict might be similarly serious in circumstances such as the issuance by him of a certificate of occupancy on a dwelling and thereafter acting as the broker for the sale of such."

For copies of this opinion and more information, write:
Mr. Carl J. Ruskowski, Assistant Attorney General
General Law Bureau, Law Department
State of New York
Albany, New York 12225

BANK DEPOSITS AND ASSETS: AN ILLEGAL EXEMPTION ?

A petition filed recently in the District Court of Cameron County, Texas, could eventually affect property tax payers in all parts of the country. In many states there is a tax on intangible personal property, including property held by banks. But these laws are frequently not enforced. In the above case the petitioner, a shrimp-boat owner, claims that his tax bill was 46.5% higher than it would have been if the assessor had obeyed the law and assessed the $488,000,000 worth of personal property--moneys, credits, and moneyed capital--in the county's banks and financial institutions.

Most property taxpayers would welcome a reduction in their tax bills by getting illegally-exempt property back on the tax roles. They should therefore watch this case with interest; and
(cont. next column)

they should check their own state and local laws for unenforced provisions that are letting some property-owners off the hook and are making everyone else pay more as a result. See: Swamp Irish Inc. v. Johney Snow, Tax Assessor and Collector, D.C. Cameron County Taxas, 197th Judicial District, No. 52.305-C.

DEPRECIATION WILL LOWER PROPERTY TAX REVENUE

The Treasury Department has recently issued regulations which allow business to write off depreciable assets at a faster rate. The Asset Depreciation Range permits businesses to reduce the life of an asset 20% more quickly than allowed by current IRS standards. The Administration claims that even though the new schedule will reduce federal income tax revenues by 3 billion dollars in fiscal 1971, the sluggish economy should benefit in the long run. Legal action taken by lawyers at the Public Interest Research Group persuaded the Treasury Department to hold hearings on these changes in May.

Regardless of the impact on the economy, the faster write-offs could have a disastrous effect on State and local property tax revenues. Twenty States now provide that the assessed value of industrial machinery and other business personal property shall be the depreciated value of such property as reported to the IRS for federal income tax purposes. (One should note that in any case the IRS depreciated value bears little relationship to the true cash value of an asset.) The faster write-off now allows business property to be under-assessed by an additional 20%. The Wall Street Journal estimates that the Nixon plan will reduce State and local revenue from business personal property by as much as 30%. This means that highly industrialized areas, including the downtown centers of many of the country's financially striken cities, will stand to lose up to 10% of their total revenue over a period of several years. Thus, while supposedly stimulating the economy, the depreciation schedules could burden State and local governments with a net tax loss.

And remember: the homeowner almost never gets to depreciate any of his property.

FULL PUBLIC DISCLOSURE: A KEY TO FAIR ASSESSING

Unequal assessment practices thrive in darkness. The publication of property tax assessments is an effective checking device and should rank high on any list of property tax reforms.

According to the California Newspaper Service Bureau, the Los Angeles County assessor, Mr. Phillip Watson, has adopted this view. Using permissive state legislation, Mr. Watson reportedly publishes lists of all assessments in local newspapers throughout the county. The assessments appear in order of street address, and owners are identified, so that taxpayers can easily check their own assessments against others in their area. When a property-owner claims an exemption the fact is noted for all to see.

Watson reduces the costs of the program by spreading publication among 113 community newspapers in the county. Publication is rotated, so that any single community's assessments are printed only once every five years. (However, changes in assessments are published annually, and complete assessment lists are always open to the public at each of 15 branch offices.) The cost of the program is said to be less than seven cents per parcel annually.

At last report, none of California's fifty-seven other county assessors had adopted this "Full Disclosure" system made permissible by the state.

Another helpful disclosure device is the publication of "assessment-sales ratios" for a given taxing district. This figure states the average ratio of assessed value to actual selling price in the district, and thus helps any individual taxpayer to know if his own assessment is out of line. In some areas these ratios are published in local newspapers or are printed on each assessment notice and tax bill. The expense is minimal. Even when these ratios are not published however, they may be available from the state department of taxation or from the U.S. Bureau of the Census.

(cont. next column)

(Taxpayers should use caution in relying on assessment-sales ratios calculated by local or county officials. It is common for such officials to understate the ratio by five or more percent in order to reduce the number of taxpayer appeals. State and federal officials are less inclined to "fudge" the figure because they have no tax revenues directly at stake.)

A type of disclosure sometimes overlooked is that of the actual selling price on individual properties. In some places this price must be recorded on the deed, and taxpayers can then check the actual selling price of a property against its assessment. In other places, however, there is no such requirement, and taxpayers have reported great difficulty in acquiring this information. It is reported that in Beloit, Wisconsin for example, some deeds had been recorded with the Chicago Title and Trust Co., instead of in the Recorder of Deeds' office, so that the public had no access to them at all. The newsletter would like to hear of similar experiences and difficulties.

A final word about disclosure. Our mail has revealed alarming instances of conflicts-of-interest regarding assessors and other local officials. Assessors are in a unique position to confer illegal benefits upon themselves and their friends unless the public is alerted. It would be highly desirable for such officials to be required to make a public disclosure of all their financial interests, in real property or otherwise. It is also highly desirable that local laws and ordinances contain a meaningful code of ethics for government officials. These are reforms well worth working towards.

TAX SALES: LEGAL EXTORTION

Investigative Reporting has once again laid bare a dusty corner of injustice and abuse in the property tax law. The subject this time: tax sales.

Reporter Peter Benjaminson of the Detroit Free Press has revealed that buying unpaid property taxes is a lucrative endeavor for a few area "tax buyers". The law, weighted

heavily in their favor, works like this. If a home-or property-owner becomes deliquent on three-years back taxes, these taxes are auctioned off at an annual tax sale. These auctions are not widely known and three parties have virtually cornered the market. The deliquent taxpayer then has eighteen months to purchase the taxes back from the buyer. If he doesn't, or can't, he loses all claim and title to his property, regardless how small a sum was owing. During the first year the tax buyer can charge 1% interest per month; after the first year he can charge as much as 50%.

Tax-buyers frequently soak their victims for even more. People who fall behind on their taxes are often poor, elderly, senile, or ill. They are ignorant of the law and thus easy prey for the tax-buyer's scare or pressure tactics. Judges, aware of the injustice of the law, go out of their way not to enforce it. But the victims of tax-buyers are not aware that they would find sympathy in court, and sometimes make extraordinary payments to avoid going.

The tax-buying racket is a particular problem, the article reports, in urban-renewal areas, where the tax-buyers hope to lay claim to juicy condemnation awards through an expenditure of just a few hundred dollars.

Like so many other abuses, tax-buying has festered in its obscurity from public view. It touches just a small number of people, but these are people who are in large part unable to defend themselves. Individuals and groups are urged to look into local law and practice for evidence of this legalized extortion. The Newsletter would welcome any information on property tax-buying that comes to light.

PROPERTY TAX APPEALS: A WAY TO GET LOCAL OFFICIALS TO CRACK DOWN ON SHODDY BUILDERS

Building inspectors in Howard County, Maryland, home of the much-touted "new city" Columbia, have been lax in enforcing building code regulations against large homebuilding corporations. As a result, homebuyers have been getting stuck with highly-expensive lemons. But the spectre of these homebuyers getting lowered assessments because of the builders' shoddy work may spur the building inspectors into action.

The county law requires that a builder obtain an "occupancy permit" before a buyer can move in. The law has not been enforced, according to the county building inspector, as a convenience to the builders. Thus, the typical homebuyer, completely ignorant of this law, would move illegally into a house that had not yet passed inspection. If there were any violations or defects, he faced the expensive and awesome burden of taking the building corporation to court to get them corrected.

However, a gumptious homeowner in Columbia recently took the builder, The Ryland Group Inc., to court, and won a $5,000 settlement. Among the defects alleged were an exterior paint job that had to be repainted twice in one year; inadequate hot air registers; the house not being "bolted" to its foundations; a fireplace (costing $635 extra) which did not work; and improper grading which caused part of the driveway and a cement porch slab to sink into the ground. (Other homes in Columbia are said to be similarly defective; often, however, the owners either cannot afford to go to court, or are afraid of what the publicity would do to the sales value of their lemon.)

These homebuyer miseries could be prevented if the county would just enforce its building-code and its occupancy-permit laws as they are written. The publicity generated by

the above-mentioned lawsuit may get the county into gear. But, according to the plaintiffs in that suit, what really unsettled the county officials was when they appealed their property tax assessment on the basis of the glaring defects and won a substantial reduction. The county assessor expressed open horror, they said, at the thought of all the buyers of defective homes lining up for similar reductions.

Which might mean it's time to get in line.

LOUISIANA TAX STUDY SHOWS ASSESSMENTS FAVOR WEALTHY, AND OWNERS OF VACANT LAND

A study of assessments in Jefferson Parish, Louisiana, done for the Parish Council by the Public Affairs Research Council of Louisiana, has revealed that homeowners are being assessed at twice the rate of owners of vacant lots, and that the more expensive a house, the lower its assessment in relation to its market value.

The study was based on a sample of about one-half the properties sold during the preceding year. An average "assessment sales ratio" for the parish was derived by comparing the assessments on these properties to their real market values as evidenced by the sales price. Then the ratios for individual properties were compared to the Parish-wide averages.

By far the majority of the usable transactions--1,630 out of 1,663--involved single-family residential property. Of these, 1,187 were improved and 443 were unimproved. On the average, single-family homes were assessed at 8.12% of the sales price of their property, while vacant single-family lots were assessed at half that rate--4.08%. As the report stated, " This means that the property tax bill on a house sold for $20,000 would be twice as much as the bill on a piece of unimproved land sold for $20,000."

The degree of inequality between individual property owners was astounding. The assessment-sales ratios for improved and unimproved lots ranged from .30% to 26.6%. "One house selling for $12,500 was assessed at $2,100, while another

(cont. next column)

house sold for $12,300 was assessed at only $400. One house sold for $57,500 was assessed at $2,000, and another sold for for $52,000 was assessed for $1,900, thus both houses were assessed slightly less than the $12,500 house even though they sold for a price four times higher." To fully appreciate the injustice involved, consider how one might feel if he had to pay four times as much income tax as a fellow worker earning an identical salary.

Equally astounding was the favoritism the assessor had shown towards the wealthy. Houses selling for under $15,000 were assessed, on the average, at an assessment-sales ratio almost 33-1/3% higher than that for houses selling for over $40,000. The report suggests that favoritism is shown the rich in order to bring as much of their tax bill as possible within the $2,000 state homestead exemption. (Indeed, this may be the reason for the extraordinarily low assessment-sales ratio applied to all property.) The state reimburses the Parish for all the taxes it loses through this exemption. Thus the wealthy property owners in Jefferson Parish are being subsidized by taxpayers throughout the state.

This study illustrates a straightforward technique which may be useful to citizen groups across the country. It was prepared by the Public Affairs Research Council of Louisiana, Baton Rouge, Louisiana, April, 1970.

ADDITION:

The May, 1971 Newsletter reported on page three the activities of citizens in Tacoma, Washington, regarding the propriety of certain property tax exemptions. Mr. Ken Johnston, the Assessor of Pierce County, Washington, has submitted the following:

"Your article should indicate, the citizen's action was taken against the King County Assessor, by Mr. Jerry L. Fulton, a resident of King County, who is the Exempt Auditor in the Pierce County Assessor's Office. It was the Prosecuting Attorney for King County, who in a Press Release, overturned the Attorney General's Opinion on exempt status for dormitories.

NEWBURGH, N.Y. STUDY FIND INDUSTRY NOT TAX PRODUCTIVE, HOME OWNERS FAVORED OVER RENTERS

Three years ago Newburgh, New York, was faced with the possibility of low-income housing. The city council was against it, arguing that industrial development on the same land would yield the city more tax revenues.

The city's Director of Urban Development set out to test this argument. He determined the property-tax yield per square foot of land devoted to different uses. The result, in his words:

"New single family home properties in the west end, an area which politically dominates the city, were assessed at less than $1 per square foot of improved lot area, while slum dwelling land was assessed at $6-$7 per square foot. Industry was in the neighborhood of $.35 to $2.00 depending on lot coverage, a fact which contradicts the claim that industry produces higher tax returns. On the contrary, almost every other land use was preferable on these terms."

Of course, such an analysis is incomplete until the costs of servicing these different land uses had been weighed against the tax revenues they produced. The planner who did this study felt that a cost-revenue analysis would not change his conclusions. Perhaps readers have information to offer on this question.

The apparent discrimination against slum properties, and in favor of single-family homes in a politically-dominant neighborhood, should be noted. It has been argued that assessors have less qualms about raising assessments on rental properties than on owner-occupied ones. Renters do not actually see the tax bill and feel its impact only indirectly. Thus they are less likely to protest assessments or to express their displeasure in the next election.

The Newsletter would appreciate information on other instances of property-tax discrimination against low income people and renters, and on legal remedies for such discrimination.

EXPLANATION:

The Newsletter has not been able to respond to every letter it has received. We wish we could;but rather than try to issue a mere "polite reply" to every person who writes, we have felt it more important to focus our energies on compiling information for distribution. (Besides, most people probably get enough "polite replies" from their credit card companies already.) But letters from the field have been extremely valuable in all phases of our work. Most of the articles in the Newsletter stem from such letters. Please keep writing, even if you don't hear from us.

PROPERTY TAX NEWSLETTER
1025-15th Street, N.W., Suite 601
Washington, D.C. 20005

I wish to receive the Property Tax Newsletter. Enclosed is my check or money order for /___/ $2.00 (individual) /___/ $3.00 (business, professional, or institution) (make payable to Public Interest Research Group).

Name ______________________ Address ______________________

City ______________________ State ____________ ZIP CODE ________

NOTE: Please check the zip code on your present label. If it is missing, or if it is incorrect, please send us the present label with the correct code clearly written on it. Thank you.

PROPERTY TAX NEWSLETTER

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NEW WASHINGTON ASSESSOR BRINGS LAW AND ORDER TO PROPERTY TAX EXEMPTIONS

Ken Johnston decided to do something about illegal property tax exemptions. After taking office as Assessor in Pierce County, Washington, last January, he established an "Exempt Division" to investigate and review all the exempt properties in the county. One spur to his investigation, he readily admits, was a Washington law that makes the assessor personally liable for a fine of between $200-$1000 for each exemption illegally granted.

Combing through the exemption underbrush, Johnson and his Exemption Auditor, Mr. Jerry Fulton, found that prior assessors had been less than careful in doling out tax exemptions, even though Washington law and policy require that exemption laws be interpreted strictly, in favor of the power to tax. Some examples of what they found:

---An American Legion post was claiming an exemption on a "meeting hall" in which it had never met. The building had been rented out for income for ten years.

---Churches rented out homes but claimed exemptions on them as parsonages.

---A "cemetary" exemption had been granted to a parking lot.

---In 1955 the state legislature had repealed the exemption for college dormitories, but the assessor had kept them--22 million dollars worth--on the exemption rolls anyway.

As of June 16th, Mr. Johnston had put over 31 million dollars worth of property back on the tax rolls. And he is requiring anyone claiming an exemption to submit annually, detailed documentation justifying his claim. When the Mormon Church refused to produce evidence that their Pierce County "stakes" were supported entirely by donations, they were striken from the exemption list. So were four hospitals which failed to submit statements required by law that all income and donations had been applied to operating expenses.

Predictably, the assessor's decision to enforce the law has not pleased everyone. For example, when he removed exemptions from four blood banks because they didn't qualify as "hospitals", he provoked the ire of the Pierce County Labor Council which operated one of them. And the State Legislature rushed through, in less than a week, bills to exempt the blood banks and college dormitories. But Johnston claims the action came too late to save them from the three years back taxes imposed by law on properties exempted illegally. For the two local universities, this will mean a 1.5 million dollar tax bill.

Assessor Johnston says that his was the first attempt in his state to review and revalue exempt properties. The effort bears repeating elsewhere. And to"encourage" assessors to act, citizens would do well to scour the laws and court rules of their own state for provisions like that in Washington which penalize assessors who don't do their job. Where such laws do not exist, citizens should work to enact them.

Inquiries regarding the Pierce County Assessor's Office should be addressed to: Mr. Ken Johnston, Pierce County Assessor, County-City Building, 930 Tacoma Avenue South, Tacoma, Washington, 98402

LAWYERS' FEES: GETTING PAST THE BAR TO JUSTICE

The cost of a lawyer is one of the major obstacles to property tax equity for the small property owner. There was news this month regarding two possible ways to surmount this hurdle--class actions and group legal insurance.

In Pleasantville, New Jersey, a group of taxpayers is trying to appeal an allegedly-illegal assessment through a class action. All residents of a nine-block area, they claim that the assessor arbitrarily doubled their assessments while leaving assessments on bordering blocks untouched. They have done a computer study which indicates that before the assessor's action, property values in the nine-block area and in surrounding blocks were roughly equal. Now, however, the plaintiffs are being assessed at $44 per front foot, while on neighboring blocks the assessments drop to between nineteen and twenty-three dollars per front foot.

In their petition to the lower court, the plaintiffs asked for any of seven forms of relief, ranging from an order compelling a reassessment, to an equitable order permitting the 163 residents of the area to pursue their administrative remedy as a class, filling out only one appeal form and paying only one $2.00 fee. The plaintiffs urged that their grievances were identical, and that unless the class action were allowed they would be unable to protect their rights. The tax reduction from a successful appeal for each plaintiff individually would be only about $60, hardly enough to even cover the lawyer's fee. But if the $60 reduction of all 163 appealing taxpayers could be combined, the total would be almost $10,000. Effective legal representation would then be possible.

The lower court ruled against the plaintiffs. It said that since they had not "exhausted their administrative remedies"--that is, had not taken their appeals individually before the Board of Tax Appeals--it lacked jurisdiction to order a reassessment or even to declare that they constituted a class.

OUTLINE OF STUDENT RESEARCH PROJECTS NEARING COMPLETION

The Newsletter has been developing sample research projects to assist teachers and students interested in initiating studies of property taxes and related subjects. These sample projects are nearing completion and will be sent to all who have already requested copies or who request copies in the future.

The projects include:

---Tax Equity--Suggested ways to discover whether the assessments in a given community favor any individuals, businesses or groups.

---Property Tax Administration--Including the operation and competence of the assessor's office and the adequacy of the taxpayer-appeal mechanism.

---Exemptions and Preferential Assessments--How they are abused, how they might be reformed.

---Legal Standards--What the law is, what it should be, to what extent legal requirements are observed.

---Land Use--The effect of property taxes on land use, construction, housing, and architecture.

The sample projects are in no way meant to be definitive. They are simply suggestive of areas that, according to our experience, bear further inquiry. Actually, the most useful projects would be those worked out between students and citizen-reform groups. A resident of upstate New York has reported a very favorable response when he approached professors at two local universities about starting student projects on property taxes. The Newsletter would like to hear more of such cooperation.

In addition, the court said that the state class action statute and rules of court applied only to court proceedings, and not to administrative proceedings. And finally, seeming to ignore the basis of the plaintiffs' claim, the court suggested that a class action was not appropriate for assessment appeals, because "the circumstances surrounding the valuation of each property may be different and may raise different issues of fact. . ." (Yet when 100 of the plaintiffs took their separate appeals to the County Tax Board, the Board whisked through them when the lawyers stipulated that testimony regarding land values from the first case could be incorporated by reference into all the rest.)

The plaintiffs have petitioned the New Jersey Supreme Court for certification. A decision is still pending.

Meanwhile, group insurance is being advanced as another way to put legal services within the reach of more people. Business Week, July 10, 1971 reports that over 100,000 American families are covered already by such insurance, and that unions, professional groups, cooperatives, and student organizations are currently negotiating with "packagers" of insurance plans. The article cites an experiment in Shreveport, Louisiana, sponsored jointly by the American Bar Association and the Ford Foundation, in which 600 construction workers and their families get "$100 worth of legal consultation. . .$250 worth of negotiating and research (after paying the first $10), $515 worth of court expenses (after paying the first $25 if they are plaintiffs) and 80% of the next $1000 (if they are defendents)." The covered workers can retain any lawyer they choose. One interesting effect of the experiment is that "some merchants not previously noted for scrupulous business practices now deal carefully with members of local 219."

Government officials along with businessmen deal more carefully with citizens when they know there is legal bite behind their bark. One person has suggested that citizen groups investigate group insurance as a way to finance the assessment appeals and similar legal actions of its members.

STUDENT PAPER DESCRIBES ASSESSMENT--ABATEMENT CARNIVAL IN THREE CITIES

An economics student at Harvard College, Mr. Michael E. Kinsley, has written a term paper entitled "Tax Abatements in Three U.S. Cities". The paper, based upon interviews and field research, describes a highly legalistic and bureaucratized system in New York, an almost entirely extra-legal system of accommodation and special "arrangements" in Chicago, and in Boston a system somewhere in between. The common thread in all the cities was that lawyers, quasi-lawyers and sometimes government officials had turned the abatement process into a highly lucrative calling. And because the lawyers work on contingency fees, the small property owner is virtually shut off from the system.

In New York, the paper reports, the whole process is based on a double falsehood. First, New York assessors are required by law to inspect personally every property in their area, and to sign a paper to that effect. They don't inspect the property, the study says, but they sign the paper anyway. Second, New York is supposed to assess all properties at 100% of fair market value. In fact, it assesses residences at about 40% and commercial properties at about 80%. But it doesn't admit this variance. So to qualify for an abatement, a property owner must--at least in theory--still prove that his assessment is above 100% of fair market value. To the homeowner, this means proving his assessment was two and one-half times greater than the actual ratio for residential property.

Although businesses are harder hit on theassessment ratio--New York can sting commercial properties because the Manhattan location is so desirable --they have a much smaller hill to climb to qualify for an abatement. And because the amounts involved are large, especially when several properties are in question, a small number of law firms have specialized in cashing in on this market. These firms usually do not even deal with the property-owner himself, the paper

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says. Instead, they deal exclusively with the client's regular business lawyer.

In New York assessment appeals that are not settled administratively are brought to the State Supreme Court on certiorari. Approximately 25 New York law firms file an average of over 100 such cases each year, the paper reports. (A $50,000 assessment is said to be the minimum they will handle.) A common tactic of these lawyers is to delay the trial for five to six years--the court calendar is one year behind already--in hopes of negotiating before trial one big settlement for all the years that have piled up, without the expense of hiring an appraiser to testify in court.

The lawyer gets a 50% cut of the reduction for his services. And because the assessor does not use these negotiated settlements as the basis for future assessments, the lawyers' work has a built-in obsolescence that even the automakers would envy.

In contrast to the lawyerly and procedural New York system, Chicago appears from the student paper to be (or at least to have been; see note below) a jungle of sub rosa dealing and political influence. The paper notes, however, that the informality of the Chicago system is not without beneficial results. The small businessman or homeowner appears to have more access to this system. And the availability of extra-legal, and even preconstruction, assessment deals has probably encouraged new construction and creative, expensive architecture which other cities have driven away with less accommodating assessment procedures, according to the student paper.

But what a Boston City Councilman said about his city would apply even more to assessment practices in Chicago: ". . .when you have already been driven under the table, anything can happen."

In Chicago, it would appear that anything can happen. The student paper cites so-called "Objection Ones" as an example. Objection Ones are appeals filed directly with the assessor and decided entirely at his discretion. The shortcut procedure was established during the depression to provide for special hardship cases, such as where a building burns the day after it is assessed. Today, the paper suggests, Objection Ones have become a bag of favors in cases which do not always involve hardships. But it is very hard to check back on these Objection Ones. The files are said to be kept in a separate part of the County Building, in an order that only the initiated can understand.

Another way that anything can happen in Chicago is through abatements negotiated before the assessment has even been set. (This way they are kept off the record entirely). Negotiated abatements are available to the large property owners who can pay a "specialist" to intercede with the assessor for them. There are said to be about twelve such specialists--some lawyers, some not; and they appear to have become an unofficial adjunct to the assessor's office. In fact, the paper says, the assessor actually polices competition between the specialists, refusing to deal with one when he knows the property-owner in question is already represented by someone else.

These specialists take 50% of the reduction they claim to achieve. The property owner has no way of knowing if he really benefitted by the amount claimed, but few ask questions. It is widely suspected, according to the paper, that part of the 50% finds its way back to the assessor's office.

In Boston as well, the paper reports, politicians and lawyers have found the assessment-abatement process to provide a lucrative if obscure employment. In election years, it says, the party in power keeps the tax rate low by inflating the assessment base and understating in the budget what it will have to give back in abatements. After

the election, taxes are raised to make up the deficit. The lawyers, apparently with the help of the assessors, do quite nicely. Although assessors can, by law, "negotiate" an assessment appeal any time before it comes before the Appellate Tax Board, they usually wait the two to three years until just before it comes to trial. One reason, according to the paper, is that the wait allows 2 to 3 cases on the same property to pile up, so the total abatement, and hence the lawyer's 20-33% cut, will be more. And as in New York, since the case did not reach the Appellate Tax Board, the assessment can--and usually is--raised back up again the next year, so the lawyer keeps his client.

"Sunlight is the best of all disinfectants" said Louis D. Brandeis. This papers shows how much needed light student papers can shed upon the property tax and its administration. The Newsletter seeks to encourage and assist such research (see above) and to communicate with writers already working in this field.

NOTE: Since the completion of this student paper the Cook County (Ill.) Assessor's Office has informed the Newsletter that it has taken steps toward self-correction. Mr. Dennis P. Dunne, Ph.D., Director of Communications of that Office, sent materials indicating there has been a thorough study of the Office by the Real Estate Research Corporation, the establishment of a Department of Research and Analysis, the recruitment of college-trained and professional personnel,". . . steps to guarantee the integrity of and fairness of (its) documentative appeal process", and the establishment of a Department of Research and Analysis, a Department of Taxpayer Assistance, and In-Service Training programs for personnel. In a recent speech the Cook County Assessor's top aide said, "You will find that our system is professional and open."

The Newsletter hopes to report more information about the Cook County Assessor's Office in the future.

NATIONAL NEWS

Muskie Hearings

Senator Muskie is now exploring ways to approach the property tax hearings. He has expressed an interest in holding the hearings around a piece of federal legislation. Although the field sites have not been determined, his staff is actively researching places and problems which warrant attention.

Federal Legislation

In previous issues of the Newsletter, it was reported that Congressmen Koch (D. N.Y.) and Reuss (D. Wis.) had introduced bills concerning property tax relief.

Koch's bill (H.R. 842) would allow a renter to deduct from his federal income tax that portion of his rent which represents his proportional share of real estate taxes paid by the landlord.

Reuss' bill (H.R. 6883) would allow low-income elderly to deduct up to 75% of their property taxes from their federal income tax. If the person does not have any federal tax liability, he would be entitled to a cash payment from the federal government for the amount he would have received if he had been liable for taxes.

Both bills are now before the House Ways and Means Committee. Because the Committee is currently examining revenue sharing, welfare, and health care programs, it is extremely doubtful that either of these bills will be considered before the end of the legislative session. The staffs of both Congressmen hope that the Committee will take up the bills early next year.

Views on either of these bills should be addressed to your Congressman and to Representative Wilbur D. Mills, Chairman of the House Ways and Means Committee.

Wilbur Mills

Congressman Wilbur Mills, Chairman of the House Ways and Means Committee, believes that the States should make a better tax collection effort before receiving any shared revenue from the Federal Government. In a speech before the National Tax Association, he stated that if all States made the same "tax effort" as the average of the ten "best" States, an additional 18.1 billion dollars in tax revenue could have been raised in 1971. While Mills did not specifically mention property taxes, several Congressmen, including Les Aspin (D. Wis.), have advised the Chairman that large amounts of revenue are being wasted by poor property tax administration. Mr. Mills appears to favor a gradual replacement of the property tax with a State income tax.

ACCELERATED DEPRECIATION--TREASURY MUST EXPLAIN

A new issue was introduced recently into the national debate over the accelerated depreciation range (A.D.R.) guidelines recently put out by the Treasury Department. In a letter to state and local government officials, Ralph Nader estimated that the guidelines would cost the state and local governments about a quarter of a billion dollars in tax revenue per year.

According to the letter, those states which have corporate income taxes based on the federal regulations will lose about 150-175 million dollars per year in revenue, about four percent of the 3.9 billion per year that the federal government is expected to lose.

Coupled with this state income tax loss will be a loss of state and local property taxes of roughly 50 to 70 million dollars per year. This loss will be concentrated in those areas which, either by law or "administrative practice", allow businesses to delcare IRS depreciated values for personal property tax purposes.

The letter urges state and local government officials to demand from the Treasury Department its estimate of such losses at the state and local level. Even the most knowledgeable state and local officials cannot calculate the impact of ADR on their revenues without more information from the Treasury. Mr. Nader contends that the ADR guidelines were passed in haste without adequate public debate. He cites the impact on state and local revenues as an example of the kind of data the Treasury should have provided to interested parties before the regulations were passed.

NEW JERSEY RESIDENTS NOTE

In February the Dover (N.J.) Daily Advance published a twenty-five part series on the inequality of assessments in the Lakeland area of New Jersey. (See April Newsletter page 4) The series met so much response that the Advance wants to broaden its investigation to the entire state. Miss Carol Talley, the reporter who did the series, urges anyone with information on property-tax assessment in New Jersey to call or write her at the Dover Daily Advance, Dover, New Jersey, 07801.

LAW NOTES

One Man - One Vote Applies to Elected Assessors

The Fifth Circuit of the U.S. Court of Appeals has ruled that the City of New Orleans can no longer allow assessors to be elected from malapportioned districts. In a *per curiam* opinion handed down November 4, 1970, the Court affirmed a ruling of the U.S. District Court for the Eastern District of Louisiana that assessors performed governmental functions for the entire City of New Orleans, and that election from malapportioned districts constituted invidious discrimination denying the plaintiff and other city residents equal protection of the law.

Under the old system, one assessor was elected from each of the city's seven municipal districts. However, the population for each district varied widely. One district contained only 5.5% of the total population. Another contained 41.5%. Both districts were entitled to only one assessor.

The Court ruled that if the city does not reapportion the Board of Assessors by the end of 1971, the Court will order a special election in which each assessor would be elected on an at-large basis.

WASHINGTON EQUITABLE TAX ASSOCIATION: TAXPAYER GROUP ACHIEVES SIGNIFICANT PROPERTY TAX REFORM THROUGH STATE LEGISLATURE, KEEPS WORKING TOWARDS MORE

"Organize-Educate-Advocate" is how Mr. C. Melvin McKenney, President of the Washington Equitable Tax Association describes what needs to be done to achieve tax reform. Apparently, he is doing it well. Although in existence for less than a year, WETA has already been instrumental in statewide changes in the property tax laws.

WETA began in October, 1970, when a committee of the Pierce County (Washington) Pomona Grange decided to make a public service project of property tax reform. The Pomona Grange then allied with other organizations in the county--about half of them Grange--and these, in turn, met with representatives of groups from across the state. At this meeting WETA was born. The new group adopted articles of incorporation and bylaws, elected officers, selected a board and some committees, and authorized the establishment of a permanent office.

A month later, WETA adopted a legislative program. Immediately, it set to work to draft legislation and to find legislative sponsors for the bills. WETA's method may be instructive for other groups. First, it drew up resolutions embodying its legislative program, and took them to the legislators who would sponsor them. The legislators, in consultation with WETA, had the resolutions written up as bills. After the bills had been introduced to the legislature, WETA members across the state wrote many letters to their representatives (short letters, says WETA's President, are most likely to be read) and otherwise encouraged support.

The bills were passed by the legislature and became law on July 1st. Among the new provisions are:

--A change in the burden of proof the taxpayer must meet to have his assessment changed in court; from "fraud" on part of assessor, to "clear, cogent, and convincing evidence."

--A reduction of the interest charges on delinquent taxes to 5% for the first $500. 10% for the rest.

--An exemption for elderly taxpayers, with carefully-drafted qualifications.

--An authorization for the assessor to inspect books and other records ". . .necessary for appraisal of the property", including such data as purchase and sales figures, and information on additions and improvements.

--The establishment of a "property-tax advisor", unaffiliated with the assessor's office, to assist taxpayers on appeals. (The legislature made establishment of this office optional for each county, rather than mandatory as WETA had proposed.)

--Qualifications for assessors and their assistants and deputies, including a state-administered examination.

--The establishment of a permanent property-tax study committee of the state legislature.

--Ceilings for annual increases in property tax levies, determined as percentages of past levies.

To WETA, these reforms are just the beginning. In addition to working for enactment of certain provisions which the Governor vetoed, it has in view such proposals as:

--A state income tax, specified percentages of which would be used to ease the burden on certain existing taxes, such as the property and sales levies.

--Exempting or allowing credit for the external beautification of homes.

--Subjecting stocks, bonds, and investment certificates to property taxes.

--Taxing mineral rights held separately.

--Requiring that all exemption laws be reviewed annually by the legislature, and requiring all property owners claiming exemptions to file with the assessor annually full proof of their continued eligibility for the exemption.

WETA's President McKenney also has in mind a national taxpayers' organization which would both work for reforms at the national level, and provide a mutual-assistance forum for groups working for state and local reform. He has written over 30 groups that have been listed in this newsletter to exchange ideas and possibly to lay the groundwork for such an organization.

An experienced parliamentarian, Mr. McKenney attributes much of his effectiveness to an understanding of organization and procedure. WETA's articles of incorporation and bylaws are available from him for use as models by other organizations.

Those desiring more information about WETA should write:

Mr. C. Melvin McKenney, President
Washington Equitable Tax Association
12146 C St. South
Parkland, Washington 98444
Telephone (206) LE-7-8622

NEW INDUSTRY CAN HURT LOCAL GOVERNMENT

A study published in September, 1970 by the Economic Research Service of the U.S. Department of Agriculture concludes that rural areas may be more harmed than helped by the influx of new industry. Called "The Impact of New Industry on Local Government Finances in Five Small Towns in Kentucky" (Agricultural Economic Report No. 191), the study found that in every case where towns had lured new industry with tax concessions or industrial development bonds, the local government incurred more in additional expenses than it gained in revenue.

The Research Service selected five towns in Kentucky with populations under 5,000. Between 1958 and 1963, at least one manufacturing firm employing about 100 persons moved into each town. The study investigated the direct tax revenue derived from each industry and compared it with the increased expenditures made necessary for water, sewage, and school facilities. In every case, the expenditures were greater than the revenues, even where the town did not float development bonds or grant tax concessions.

The study also concluded that there may have been an even greater negative fiscal impact if the companies had brought in more outside employees with school-age children. All the industries obtained over 90% of their employees from the local area. Thus they brought no great influx of new population demanding more goods and services. In one case, the company brought in only one new family with two school-age children. Still, the school district incurred an annual net loss of $898.

Flemingsburgh, Kentucky was one of the towns studied. In 1959, a subsidiary of a large corporation (unnamed in the report) moved into the town. The firm (a manufacturer of auto trim) neither requested nor received any local government assistance for financing the acquisition of land, construction of the building or purchase of the equipment, nor did it request any tax exemptions.

In contrast, when a shoe manufacturing plant (also unnamed) moved into Flemingburgh in 1966, the city issued $250,000 worth of industrial revenue bonds to finance land acquisition and building construction. As a result, the city owned the land and buildings, making them exempt from real property taxes. In addition, the city granted the company a five year exemption from

personal property taxes.

Each of the new companies brought in fifteen managerial and supervising employees, with an accompanying increase of fifty children in the local school system.

The auto trim manufacturer paid $2592 per year in taxes. Because of the tax concessions, the shoe manufacturer paid only $46 per year. The auto company cost the school and city districts $2862 in additional services, creating a net fiscal deficit of $170 per year. The shoe manufacturer's additional costs were $3,400 per year, creating an annual deficit of $3,371.

Even if the private economy should benefit from the increased employment, it would appear the towns would continue to be losers, since they lack the power to tax personal income (the study however did not explore this point).

Copies of the study are available at no cost from the Economic Research Service, U. S. Department of Agriculture, Washington, D.C.

CLEARINGHOUSE OF LAWYERS, OTHER PROFESSIONALS, AND STUDENTS ANNOUNCED

The Newsletter would like to begin a clearinghouse for persons with skills needed in property-tax reform efforts. The names of such persons would be kept on file and given to nearby citizens and groups who request them. Lawyers, appraisers, realtors, planners, economists, students, and persons with related talents who desire to be listed in this clearinghouse are requested to submit their name, address, phone number, and a brief account of their experience and skills. Please indicate also if you would prefer not to be listed in a forthcoming Newsletter.

WALLINGFORD, CONNECTICUT--WHERE THE RIGHT TO KNOW IS NO RIGHT TO KNOW

Under a much-heralded state law, citizens of Connecticut are supposed to have the "right to know"; that is, the right to inspect all public records and documents. But when property taxpayers of Wallingford, Connecticut, (pop. 35,801) tried to avail themselves of this right to see if they had been assessed and taxed fairly, they found the record books to be effectively closed.

The citizens had become aroused over a controversial reassessment done by the United Appraisal Company of East Hartford, Connecticut. While the assessments and tax bills of most homeowners had gone up substantially, the proportion of the total tax bill paid by the town's industry had dropped from 30% to 23%. To see if the reassessment had been above board, and if they had any basis for an appeal, the taxpayers asked to see the assessor's records.

They were not given an outright refusal. Instead, they were told they could not see the records unless the assessor was present. And the assessor, it seems, was hardly ever present. Taxpayers made repeated trips to his office, to no avail. One signed an affidavit that she had been there twelve times. Each time she was denied the records because the assessor was not there. An assistant to the assessor said that normally he was in the office less than half the time, and that he left no instructions as to how he could be reached when he was away.

(Even if the taxpayers had gotten to see the records, however, the benefits would have been limited. The assessor's office provides no photocopy equipment or service, and it does not allow cameras. So to use the lengthy assessment rolls and "field work sheets", citizens would have had to transcribe them by hand.)

Meanwhile, the sixty-day period for appeals was running out, and the taxpayers had no way to discover if

they had a factual basis to file one. And under Connecticut law, there is a stiff penalty for anyone who appeals without having a factual basis. So, with the assistance of the Connecticut Earth Action Group, a public-interest organization being established with help from Ralph Nader, a group of taxpayers sought a court order to extend the appeals period until their right to see the assessment records had been honored. The judge turned down their first petition, saying he needed to be shown he had the power to grant such an extension. When the taxpayers' attorney appeared the next day--the last of the 60 day period--with the requested brief, the judge again denied the petition, saying he had forgotten his glasses and couldn't read it.

Several taxpayers filed appeals without having seen the records, and others may join them in a class action later. In addition, Wallingford residents and the Earth Action Group intend to investigate the indications of misdoings which arose there during the reassessment controversey.

NOTICE REGARDING CONFERENCE PROCEEDINGS

The May, 1971 Newsletter announced that there were available copies of the proceedings of the Conference on Property Tax Reform, held in Washington, D. C. last December twelfth. (The proceedings appeared in the May 10, 1970 Congressional Record at page E 4147). The response to this announcement was larger than anticipated, and our supply temporarily ran out. As soon as the Newsletter can secure more copies of these proceedings it will send them to those whose requests have not yet been honored, and to any others who would like to request copies. (All requests should include a stamped, self-addressed envelope, please).

CORRECTION

The last issue of the Property Tax Newsletter stated at p. 3, col. 1, that James R. Laird, President of James R. Laird & Associates, an Appleton, Wisconsin appraisal and engineering firm, is the brother of Secretary of Defense Melvin Laird. Mr. James R. Laird has informed the Newsletter that he is not a relative of the Secretary of Defense.

A REQUEST TO CITIZEN GROUPS

The Newsletter would like ascertain how it can be of greater help to citizen groups and organizations working towards property tax reform. To this end, it needs to know more about them. Representatives of such groups are requested to answer the following questions, and to provide any other information or remarks thought to be helpful. (Individuals are of course also urged to share their views and comments with the Newsletter.)

Name of Organization:

Address: Phone:

Chief Officer: Is he paid?

Qualifications for Membership (if any):

Number of Members: of Active Members:

When Founded: Frequency of Meetings:

Source(s) of Funds:

Approximate Annual Budget:

Do you publish a Newsletter? Subscription price:

*Have you issued any reports? If so, please list titles, year, and prices

Have you endorsed any political candidates:

Are you affiliated with any other organization: If so, please list

*brief description of activities and achievements to date (including law suits, disclosure or public information, reforms, and the like):

* What are the most important issues and difficult problems confronting your group at this time?

*How can The Newsletter be more helpful to your Group?

*Use a separate sheet, if necessary.
If you wish to fill out this questionnaire and use the order form on the reverse side, please make a facsimilie of the latter.

PROPERTY TAX NEWSLETTER
1025 15th Street, N.W.
Suite 601
Washington, D.C. 20005

I wish to receive the Property Tax Newsletter. Enclosed is my check or money order for ☐ $2.00 (individual) ☐ $3.00 (business, professional, or institution) (make payable to Public Interest Research Group).

Name ______________________ Address ______________________

City ______________________ State ______________ ZIP CODE __________

Back issues of the Property Tax Newsletter are available for twenty cents each. Please use the order form below.

Check back issue(s) desired: Total amount enclosed: ________

_____ Number 1 (October, 1970) _____ Number 6 (March, 1971)
_____ Number 2 (November, 1970) _____ Number 7 (April, 1971)
_____ Number 3 (December, 1970) _____ Number 8 (May, 1971)
_____ Number 4 (January, 1971) _____ Number 9 (June, 1971)
_____ Number 5 (February, 1971) _____ Number 10 (July, 1971)

PROPERTY TAX NEWSLETTER
1025 15th Street, N.W.
Room 601
Washington, D.C. 20005

FIRST CLASS MAIL

NADER'S REQUEST FOR CONGRESSIONAL INVESTIGATION

The Honorable Edmund S. Muskie
Chairman
Subcommittee on Intergovernmental Relations
Committee on Government Operations
U.S. Senate
Washington, D.C. 9 August 1970

Dear Senator Muskie:

As you know, the Subcommittee on Intergovernmental Relations has a responsibility, according to law and its annual authorizing resolutions, to "examine, investigate, and make a complete study of intergovernmental relationships between the United States and the States and municipalities, including an evaluation of studies, reports, and recommendations made thereon and submitted to the Congress by the Advisory Commission on Intergovernmental Relations pursuant to the provisions of Public Law 86-380, approved by the President on September 24, 1959, as amended by Public Law 89-733, approved by the President on November 2, 1966." Judging by the reports submitted to the Subcommittee by the Advisory Commission on Intergovernmental Relations (ACIR) and by the repeated concerns for adequate local revenues expressed by you and the Subcommittee members over the past decade, there are few issues more important to the Subcommittee than the status of the property tax. Yet over the same decade, there were few issues subject to so little Subcommittee attention and investigation than the property tax--the source of about 40% of local general revenue from all sources.

Most would concede that considerable political courage would be involved in any Congressional committee investigation of the nature, assessment, incidence and administration of the property tax in this country. But the undertaking is necessary nevertheless and your Subcommittee is in a prime jurisdictional arena to do so. I should like to set forth some reasons for this belief for your consideration and comment.

State and local expenditures have at least doubled since the founding of your Subcommittee a decade ago. Analysts project that state and local governments will have to raise a total of $300 billion in the next three years. Property taxes produced revenues of $33,556,000,000 for state and local governments in 1969. Despite predictions of its decline in importance, the property tax has displayed significant elasticity or responsiveness to both national economic growth and local revenue needs. However, property tax revenues are not keeping up with the expenditures of state and local governments. This is worrisome for more than the obvious reasons; the property tax revenue is a major determinant in the ability of local governments to finance public education, hospitals, municipal facilities. It is also a yardstick for how much additional state and federal assistance is needed. Moreover, as economists have pointed out, the tax affects the cost and use of housing and land, the allocation of private resources and can become far more regressive in practice than in the theory espoused by state constitutions.

It is in the area of property tax administration that your Subcommittee can be most helpful in bringing the facts together for an entire nation to obtain a more comprehensive view of what some 80,000 separate local governmental jurisdictions depend on for revenue. There is no doubt whatsoever that the grossest inequities, discrimination, illegalities and incompetence prevail on a scale well beyond the episodic. It is important to note that, unlike sales and income taxes, property tax liabilities for the average not-well-connected taxpayer are not initially determined by taxpayers but by assessors who are elected, for the most part, in highly partisan rather than professional contexts.

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Add to these contexts the camouflaging capacity of valuation and assessment advocacy by corporate advocates operating well out of public visibility and the interlocal and interstate property tax competition induced by tax "shopping" industries and the backdrop for profound and unbridled abuses becomes clearer.

Consider the requirement in many state constitutions that taxes be levied at uniform rates against the reality of wildly preferential assessments both inter- and intralocally. This practice has been so notorious that the most restrained scholars have seen fit to use strong, normative descriptions. For example, in a 1963 report by the Advisory Commission on Intergovernmental Relations (ACIR) whose activities are the jurisdictional concern of your Subcommittee, it was stated:

> "A somewhat exclusive characteristic of property tax administration is that few officials feel under obligation to enforce the tax law as written. In some States, in fact, compliance by the assessors with the constitution and statutes would be a cause for general consternation. The average assessor makes himself a sort of one-man legislature."

In a report by ACIR released three years ago, it was declared:

> "In brief, the practice of 'negotiating' industrial tax assessments can produce both a highly discriminatory tax system and a corruptive administrative environment."

Again, in a 1969 report, ACIR stated its concern for the "evasion and condoning of evasion [which] are so widespread as to make such laws a tax on integrity" and noted that "the extent to which some personal property tax laws have beomce legal fictions is notorious."

Such commentaries are not restricted to ACIR reports but are characteristic of many property tax scholars and ad hoc state commissions of inquiry.

The extent to which large business properties fail to pay their proper share of the property tax, given stated assessment ratios, is a national scandal of corruption, industrial extortion toward local communities, and discriminatory impact on the small business and home owners who have to pay the bills. Nothing short of a federal investigation can begin to disclose the abuses which have woven a fine web of mutually implicating relationships between business and government officials.

Some examples of the most serious underpayments of property taxes can illustrate that billions of dollars of local property tax revenues are being lost to local communities through the abuses and evasions of large business property holders above and underneath the ground:

1. In the Permian Basin of west Texas, some of the world's largest oil and gas companies own immensely rich properties which are undervalued by more than 50%. Since the local county and school district are not receiving fair payments on the oil and gas properties, the small businessman and the owners of houses are paying nearly one-third more in taxes to meet local revenue needs.

2. The corporate owners of east Texas timberlands pay taxes that do not remotely reflect the true market value of their properties. Local governments and schools in these areas are deprived of millions of dollars which they need to improve the services of health, education and other facilities for their citizens. Property taxation of timberland, in

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grossly undervalued treatment, is a pattern all across the nation from Maine to Georgia to the Northwest.

3. In Minnesota, taconite producers have taken hundreds of millions of dollars out of the state after extorting a shockingly low tax rate from state authorities as the price of their production. The profits for these companies--such as Republic Steel and Armco Steel--from this production have been enormous. Yet the taxes on taconite are one-third of the per ton state and local taxes on natural iron products. Presnetly, the taconite production tax is only 13¢ per ton (it was much lower a few years ago). But a study by Stanford Research Institute for the N.E. Minnesota Organization for Economic Education, released in June 1970, concluded that the tax could be increased to at least 50¢ per ton without affecting the marketing position of the industry.

4. Much undeveloped but valuable land resources held by companies are late in being rendered for the purposes of taxes. For example, some property in the Permian Basin went unrendered for a number of years.

5. Special "industrial zones" receive special property tax treatment in the most discriminatory manner. Through deliberate under-assessments, these industries are not even paying the price of their own pollution of the local communities, not to mention the failure to contribute their fair property tax share to the educational and other needs of the communities.

6. In a recent report (July 1970) by a team of West Virginia law students, the shocking underpayment of property taxes by the coal barons was documented. Despite enormous profits on investment in this booming sub-economy, the coal operators (many of them steel, oil and chemical companies) have starved those poor areas of their rightful share. The traditional underpayment of property taxes for oil, gas and coal has been noted in the scholarly literature and reported in Dick Netzer's study of the Economics of the Property Tax.

7. There are similar conditions obtaining in the copper mine areas of the country and in the discriminatory property taxation of large agri-business holdings.

In these days of serious local revenue needs and discussions about federal revenue sharing, your Subcommittee is in a unique position to conduct the investigation needed to point toward the restoration of at least $6 billion in lost property tax revenues from large property and subsurface mineral owners. Also because of the interlocal and interstate competition which industries, old and new, throw states and localities into, only a federal inquiry can do this job. Public Law 86-380 directed the ACIR to recommend the "most desirable allocation of governmental revenues among the several levels of government" and suggest a "more orderly and less competitive fiscal relationship(s) between governments." ACIR has conducted a number of studies in this regard but they have been almost totally ignored. It is clear that your Subcommittee has not fulfilled its mandated mission in taking these reports and extending to their data and judgments the facility and policy judgments of the Subcommittee. Such a leadership role is critical if there is ever to be reasonable [illegible] in property taxation, if all the legal revenues are to be collected from the property tax, and if there is ever to be an opportunity to restore the law to a level of integrity that commands respect and rebukes the dealing, the pressure and the corruption that have been its administrative trademark for so long.

[From the Gary Post-Tribune]

FOR A CLEARER STEEL TAX PICTURE

Because a situation has been left dormant for years is no reason that it must stay that way. That truism seems particularly applicable to recent disclosures in this newspaper that for years United States Steel's Gary plants have, through a "gentleman's agreement" or otherwise, been able to avoid literal adherence to the city's and the state's building permit laws.

What is involved is not so much the permit fees themselves. While they amount to a considerable sum—much of which the steel company has paid—they are relatively small in comparison with other potential revenue.

What is involved—less directly but more importantly—is tax valuation.

For years the steel company, for reasons of expansion, modernization and correction, has been spending millions, probably hundreds of millions, in work on its mills here. How many millions? The steel company has never said. Its blanket building permit checks have been based on undetailed and unchecked company estimates. Its public relations announcements of such projects have traditionally omitted figures.

There would seem to be a reason. By glossing over or hiding the actual figures the company can make a report on the value of its property which often represents less than may have been paid for actual improvements, let alone past installations. Assessors' office employes have been as technically unable to document a challenge to these figures as have city building department employes. That could open the way for the steel company to pay considerably under its fair share of taxes. That in turn would place that burden on the homeowners, smaller businessmen and other taxpayers.

Now the steel company could have some arguments and explanations in defense. First, it is next to impossible for relatively low-paid employes of the building department and assessor's office to challenge figures provided by batteries of experienced engineers on the costs of steel construction. Second, depreciation is in itself so complex a study that challenging mill figures would raise another considerable problem. Third, much of the industry's expenditure on improvement is for equipment which may not be subject to building permit fees though which should be subject to personal property tax. Fourth, a large part of the improvement has been in part for combating of pollution for which tax writeoffs are often allowed, though often at the same time also for more efficient, more economical operation.

None of that, however, constitutes a reason why the steel company should be exempt from a routine ordinance such as that regulating building permits, and from similar state laws.

We trust the city will follow through on the effort it initiated in 1968, then let lic, to enforce the building permit ordinance as it may affect the steel company just as it does where others are involved. We hope the state does the same thing.

The permit revenue could mean something. The possibly more accurate tax valuation picture should mean much more.

[From the Gary Post-Tribune]

PLUMB QUITS GARY CHAMBER OF COMMERCE, HITS SANITARY BUDGET CUTS

(By David C. Allen)

Gary City Engineer Mahlon J. Plumb announced his resignation from the Greater Gary Chamber of Commerce today, charging it no longer has the best interests of the city at heart.

Plumb, a part-time city official associated with the Ross Township Engineering firm of Plum, Tuckett and Hubbard, Inc., is a past president, vice president, secretary, committee member and committee chairman, as well as a current director of the chamber.

He said he resigned after the chamber Tuesday renewed objections to the Gary Sanitary District's 1971 budget at a hearing before State Tax Board representatives in Crown Point.

Plumb, one of three members of the sanitary district board, defended the district's original budget as an uninflated version of exactly what it needs.

Sanitary District Supt. F. Leonard Coventry, who also was at the press conference, announced Wednesday he will quit if money cut by the Lake County Tax Adjustment Board isn't restored.

At issue are cuts of $1.3 million in the fund from which bonds are paid and $331,000 in the accounts that finance current operations.

If those cuts are upheld by the State Tax Board, the final authority on local budgets. the district will be crippled. Plumb said.

Plumb criticized chamber and U.S. Steel tax researchers for short-range thinking in depriving the district of operating funds.

For one thing, merchants who are members of the chamber aren't being paid promptly in their sales to the city because units of city government run short of cash, he said.

The chamber also confuses year-end appropriation balances with actual cash on hand, the engineer said, although local governmental units haven't been receiving as much revenue as full collections of appropriated money would bring.

Plumb said chamber recommendations accepted by tax review agencies leave the district short of funds to meet bond principal and interest payments that fall due each Jan. 1.

And he quoted U.S. Steel's Phillip McParren, once the chamber's tax specialist, as explaining that the district can borrow to meet those payments at cheaper rates than U.S. Steel can borrow.

U.S. Steel's savings would be just $4,000 if the district borrowed instead of levying the cost of an operating balance on U.S. Steel and other property owners, Plumb said.

Reforms made in sanitary district operations since Mayor Richard G. Hatcher took over the city administration in 1966, Plumb said, are in danger of being scuttled by actions of the county and state tax reviewers on advice of the chamber.

That includes modernization of the sanitary district treatment plant, which he said was built a few years ago "at great expense" and still doesn't work. That modernization calls for a $12 million project, only a quarter of it local money, he said.

Also in jeopardy, said Plumb and Coventry, is a $155,000 sewer to serve the new Northeast Elementary School scheduled at Park Street and Ash Place.

Coventry expressed no optimism that the State Tax Board will heed his appeals to restore budgets of $1.5 million for operating and $2.7 million for bonds.

He said he has written the tax board members stating reasons the city needs the entire budget, but otherwise is leaving the matter in the hands of the Indiana Stream Pollution Control Board.

That board has mandated phosphate treatment facilities in Gary by December 1972, among other things, the superintendent said.

He said he will be available to speak at any time with the tax board should the state pollution agency make an appointment involving the matter.

Also available, Plumb said, will be the League of Women Voters, the Gary unit of the American Association of University Women and the Community Action to Reverse Pollution (CARP) committee.

Plumb said his resignation was submitted with regret, as he said the chamber membership includes many fine people.

He added his public condemnation of the chamber came only after he worked hard to avoid the "drastic" step.

[From the Gary Post-Tribune]

MILL-CITY DISPUTE HARDENS

By George Crile

J. David Carr, superintendent of Gary Steel Works, feels the proper place to settle the dispute between the city of Gary and Gary Steel Works over building permits might be the courts.

A lawsuit apparently is the only path left to city officials now if they don't agree with his interpretations of Gary Works' responsibilities in the matter.

Unlike other firms and individuals in Gary, U.S. Steel does not obtain building permits from the city building department. It does pay fees of the permits, but these are based exclusively on its estimates and have been challenged by the Hatcher administration.

City building inspectors are not granted free access into the mills and do not conduct investigations there as with other businesses.

Carr maintains, "Gary Works is located outside the Gary Fire District and thus doesn't fall under the 1962 building code ordinance."

The current controversy over building permits is "an honest legal difference of opinion," he said.

Referring to Gary Mayor Richard G. Hatcher, Carr said: "Just because someone all of a sudden is elected to office and says you're guilty . . . all you can say is who does he think he is—flaunting history and the legal opinion of our lawyers?"

Shortly after coming into office in 1968, the Hatcher administration reversed the policy of previous city administrations and insisted U.S. Steel in Gary conform to the city building permit laws.

Negotiations were initiated in 1968. They were allowed to break off about a year ago but now appear about to resume.

Spokesmen at U.S. Steel refused to comment on the general question of building permits prior to the publishing of a Post-Tribune investigation in late October. After the article was published, public relations representative Bancroft Yarrington said no comment would be possible until copies of the article had been sent to the company's main offices in Chicago and Pittsburgh.

A letter from the Post-Tribune sent to former Gary Works Supt. George Jedenoff, asking assistance in getting a response to the investigation, was forwarded to Carr and an interview was then set.

The interview took place in Carr's office, just inside the main entrance to Gary Works. He was joined in the interview by U. S. Steel's Chicago-based lawyer, Warren C. Horton, Chief Engineer Arnold Beyer and a public relations representative, John Daley.

Carr offered the interviewing reporter "a little philosophy" of the company. "We stand on this philosophy: We never violate a law, a statute or an ordinance," he said.

"I wouldn't be sitting here in this chair if I weren't an honest man," he added later. "We may have a difference of interpretation of the law, but that's why we have such knowledgeable legal counsel," he said, gesturing toward Horton.

Carr then had the lawyer run through the corporation's justification for not conforming to the city's building permit laws.

"The original building code ordinance was adopted in 1926," Horton began. "The fire limit ws established as ending at the Grand Calumet River. No one at the time meant for the code to apply to industry north of the river."

"U.S. Steel has it's own sewer system, fire and police departments and medical facilities," Horton continued. "Our legal position from 1926 through 1970 is that we don't fall under the ordinance."

Horton stopped at this point. He noted, "It is not desirable to go forward with a detailed legal definition of our position because it might end up in court."

Carr said the corporation's policy since 1953 of paying city building permit fees in quarterly lump sums without having to take out single permits emerged as a compromise over a "divergent legal opinion as to the application of payments" to the building code ordinance. The payments have always been made with the understanding they are "without prejudice to our position. That is the key," he said.

He said the company doesn't in any way acknowledge an obligation to conform to the building code ordinance through its 17-year history of making payments for fees.

"We'll pay the fees, but only if it doesn't jeopardize our position," he added.

On the topic of U.S. Steel's relationship to the Indiana Administrative Building Council (ABC), Beyer said he didn't believe The Post Tribune figures, which stated that more than $30 million in construction had been undertaken at Gary Works without state permits since 1962, were accurate.

While denying the general figure, Beyer acknowledged the Basic Oxygen Process Shop—a project started around 1962 and costing many millions of dollars—had not received a permit from the ABC.

Carr complained several times about The Post-Tribune story.
"How far can you push me?" he asked. "I'm not asking for a fight with the paper, but a newspaper is a business—it doesn't exist in a vacuum. It's got to have a relationship with U.S. Steel. What would happen if it were to lose money? You ever heard of that?"
Carr said such disputes as the one over building permits should be settled in court. He complained that The Post-Tribune article made U.S. Steel appear to be "dealing under the table."
"Unfortunately, judges and juries read newspapers and watch TV," he said.
Carr concluded the interview with a warning to The Post-Tribune.
"Almost 35,000 people make their living from U.S. Steel in Gary," he said. "Our business makes the city and also makes the paper."
When asked to elaborate on this point, Horton intervened: "I think what we're all trying to say goes back to a statement by the founder of the city, Judge Elbert H. Gary. 'Our policy is to be a good citizen in the community we reside in.'"
The interviewer was over the reporter about to leave Carr's office when the superintendent repeated a point made earlier: "This corporation was started 70 years ago. The city depends on it and so does the newspaper."

[From the Gary Post-Tribune]

SUIT CHALLENGING METHOD OF ASSESSING AWAITS OK

By George Crile

Gary Mayor Richard G. Hatcher is considering committing the City of Gary to a lawsuit challenging the present statutory method of assessing property in Indiana.
The research has been completed and the suit awaits Hatcher's go-ahead. The Lawyers Committee for Civil Rights Under Law, a Washington-based public interest law firm, has been working several months preparing for the suit. A request from Hatcher resulted in the firm assigning two lawyers full time to the case.
Although the potential suit will probably be aimed at the general question of assessment practices in Indiana, the real target of the legal challenge would be what the Hatcher administration and other local observers feel is the under-assessment of U.S. Steel's properties in Gary (and the correspondingly high assessment of other properties). Another possible target of the suit could be the Calumet Township assessor, Thomas Fadell.
The lawyers committee is providing its services without charge but the city would still incur about $20,000 in local costs. Hatcher is holding off on his decision while he seeks a funding source among private foundations.
The Gary School Board considered joining the city in the civil suit but conflicting opinion among board members prevented the move.
The threatened lawsuit is the latest in a series of initially attention-getting, but so far fruitless, moves on the part of the Hatcher administration to challenge U.S. Steel's assessment.
With considerable fanfare in 1968, city hall officials, citing a 1906 state statute for legal justification, tried to force U.S. Steel Corp. to turn over its Gary Works books to the city so its tax assessment could be checked. The corporation's lawyers, however, succeeded in gaining a temporary restraining order. The approach wasn't attempted again.
Shortly after that, Hatcher moved on a different front, demanding that the corporation start to take out building permits in the same manner as other individuals and firms in the city. U.S. Steel had adopted the practice of paying for permits but not taking them out and not granting city building inspectors free access to inspect the facilities.
By state law, the mayor of a city is required to provide the township assessor with building permits on a monthly basis to assist him in determining the fair market value of the properties he is assessing.
Gary city administrations had been in violation of this state statute in regard to U.S. Steel property for years until the Hatcher administration broke precedent in 1968 and insisted on compliance from the corporation.
Once again, an initial drive was quickly dissipated. It has been two years since the issue was raised and nothing has been resolved.

Recent public statements by U.S. Steel officials, however, make it clear that the corporation won't take out building permits unless ordered to by a court of law. This is apparently a company policy for all of the corporation's steel mills throughout the country.

The Lawyer's Committee has offered to take on this case for the City of Gary as well, and Hatcher has indicated the city intends to take U.S. Steel to court over this case even if it doesn't follow through on the larger question of the assessment practices in Indiana.

[From the Gary Post-Tribune]

ASSESSOR PERS EXPLAINS—CCC, INLAND ARGUE "TAX BREAK" CHARGES

By George Crile

Inland Steel Co.'s East Chicago plant is receiving a yearly tax break of $20 million, the Calumet Community Congress (CCC) charged today.

The CCC released the results of a two-month study of East Chicago steel mill's assessment to The Post-Tribune this morning.

Representatives of the CCC's taxation committee said they would make these charges in person this afternoon at Inland's annual share-holder's meeting in Chicago.

The steel company today rejected the CCC conclusions in a statement by its chairman, Philip D. Block, Jr.

John Sargent, a veteran employee of Inland and the first president of Steelworkers Local 1010 (in 1937), will read off the results of the CCC's investigation at the meeting. Sargent is a member of the organization's tax committee which conducted the assessment probe.

North Township Assessor John Pers is charged with the responsibility for assessing Inland's East Chicago plant. But Pers refers questions to the State Tax Board.

"They have assured the responsibility," he told The Post-Tribune. "We've raised the mill's assessments in the past, but they always finalize it against our wishes."

State Tax Board President Carlton I. Phillippi, saying he didn't have "all information available," declined to comment immediately on Pers' statement or on the board's role in assuring the steel mill.

The CCC's $20 million figure was computed with the use of a formula for determining the net worth of steel mills. The formula, published by Fortune magazine, is used by insurance companies to determine the replacement value of capital equipment needed to produce certain volumes of steel.

The insurance company formula calls for $350 of capital equipment to produce one raw ton of steel. Another formula, given by an executive of Republic Steel Corp. to a Chicago newspaper recently, put that figure at $300. It is this figure that the CCC used.

The Harbor Works produced more than seven million tons of raw steel in each of the last three years, and according to Inland's 1970 stock prospectus, the company's East Chicago plant has an annual steel making capacity of about 7,700,000 tons.

Applying the more conservative $300 a ton figure to the more conservative output figure of seven million tons, the CCC came up with a true cash value for the Harbor Works, before depreciation, of $2,100,000,000.

From this total, the CCC then subtracted $100 million for write-offs on such expenditures as antipollution equipment, and allowed a depreciation figure of $1 billion, or 50 per cent of the company's capital investment.

The assessed valuation then, under state law according to the CCC, should be $330,000,000.

This contrasts with Inland's $105 million assessment for 1971.

Blocks' answer said in part: "Our Indiana property assessments are made by the statutory government agencies, namely the township assessor, the county board of review and the State Tax Board, which makes the final determination of proper assessed value. In doing so, the board is legally entitled to audit Inland's books and records to verify the return. . . .

"The Calumet Community Congress has on several occasions alleged that Inland's Indiana Harbor Works at East Chicago is underassessed. Yesterday, while its representatives were meeting with company officials to inform them-

selves on how Inland's tax assessment was made, and to seek answers to a series of questions in this respect, their al[illegible]gations were being distributed to the news media.

"We reject their assertions, which are grossly erroneous and naive. They are based on inaccurate interpretations of state regulations governing property taxes and the use of completely inapplicable figures.

"In referring to the cost of recent property additions, as well as theoretical plant values, as their suggested basis for determining the assessment, they do not give proper recognition to these pertinent factors:

"First, that book value is the starting basis used for determining business property assessment, and not replacement cost or other theoretical valuations.

"Second, that there is then deducted federal income tax depreciation, which in Inland's case is greater than book depreciation.

"Third, that real property and personal property are assessed under different procedures.

"And fourth, under Indiana laws and regulations certain adjustments are allowed, including the exclusion of air and water purification facilities, adjustment for economic obsolescence and a 60 per cent reduction in assessed value for new facilities in the initial year of operation."

Inland's tax bill is arrived at by applying East Chicago's tax rate, which was a little under $10 per $100 of assessed valuation, to the plant's assessed valuation.

This results in a CCC-computed tax bill of $30 million, as opposed to Inland's actual tax tab of approximately $10 million.

Sargent is expected to call for the corporation to pay $100 million in upaid back taxes.

The CCC committee membership is made up predominantly of steelworkers with a few students and teachers. Staughton Lynd, a well known historian and a former Yale University professor is also a member of the committee.

[From the New York Times]

U.S. STEEL GARY WORKS HAS TAX "TROUBLE"

Portage—United State Steel's Gary Works general superintendent said Friday his company has tax trouble.

"Gary's overtaxing us," J. David Carr told a news conference at the Holiday Inn in Portage, adding the Gary Works pays twice as much taxes as any other Northwest Indiana firm.

"They say a steel company is capital intensive low yield operation and they're right," Carr said. "That means it takes a lot of investment to make a little money—and that's just what we're making—a little money."

He said last year's third quarter business paid 62 cents a share. At least 60 cents went to shareholders and 2 cents back into the company.

"If it sounds like we're crying 'poor mouth,' that's just what we're doing," Carr added. "We're facing hard times."

U.S. Steel pays the largest percentage of Gary property taxes, he said. "As long as we are, we want people to understand true facts about our situation."

The major problems faced by the company are excessive property taxes and how to remove pollution from its coke plant. The coke provides fuel for furnaces. It's an essential ingredient in the steel-making process. A steel mill cannot function without it.

Carr admits Gary Work's coke plant is one of Gary's major air polluters, and that U.S. Steel is faced with possible state and-or federal legal action forcing its shutdown if the company doesn't clean it up.

"At present there is no known technical method for controlling this kind of pollution," he explained. " We're trying to stop it. We have the largest battery of pollution control devices in operation of any steel mill in the area."

But there is no substitute for solving scientific problems with scientific research, he added.

"When science finds a method, we'll adopt it," Carr said. He did not say whether U.S. Steel has approached the federal government for aid in finding a solution to coke plant pollution. But another company official later was more specific.

"The federal government doesn't know any more about how to beat the problem than we do," he said. "Where Gary property taxes are concerned, the city is going to have to realize that it can't expect this company to spend millions on pollution control equipment without a break on local taxes."

U.S. Steel can spend $20 million on pollution gear without ever realizing a single penny return on it, he added.

"By the time that equipment began to age and we had to get rid of it, we couldn't sell it to anyone or give it away. That $20 million is gone," He said U.S. Steel doesn't have that kind of money.

[From the Chicago Daily News]

INLAND STEEL ASSESSMENT UNDER ATTACK

A community group charged Wednesday that the Inland Steel Co.'s huge Indiana Harbor Works is underassessed by some $200 million.

Spokesmen for the Calumet Community Congress (CCC) planned to level the charges at the steel company's annual stockholders meeting Wednesday afternoon in Chicago.

The CCC—a 6-month-old confederation of 42 community groups in the Lake County (Ind.,) area—said the steel plant is assessed for tax purposes at one-third the level at which it should be valued.

The community organization said tax records show that the company's assessment for business tangible personal property and real estate is only $105 million.

Standard economic analysis procedures used by the steel industry itself indicate, however, that the assessment actually should be more than $300 million, the CCC contended.

More important, the group charged, the company's own estimate of $59,735,673 for the 1969 value of that property—which Indiana review officials later raised to $74,062,280—came during a year when Inland president Philip D. Block said the company had made "a record high $148 million capital investments."

CCC pointed out that the Indiana Harbor Works, in East Chicago, is Inland's only steel works. And, according to company publications, the plant received most of the capital investment.

Yet during that year, the valuation set by North Twp. Assessor John Pers actually decreased by $9.5 million, from the $83,538,630 total set by the Indiana Board of Review for 1968.

CCC spokesmen further pointed out that for 1969, Inland dropped its own estimate of its business tangible personal property from $70,475,305 to $59,735,673, despite the huge new capital investment.

Pers, was not available for comment on the CCC charges.

And a spokesman for Inland Steel said the company would not comment until it had a chance to study in detail the CCC charges.

Lake County (Ind.'s) system for assessing real estate and personal property differs significantly from the system used in Cook County, where Assessor P. J. (Parky) Cullerton's practices have been under fire since last fall.

In Cook County and elsewhere in Illinois, the bulk of an industrial plant's assessment falls in the category of "real estate" which deals with the land values, the buildings and much of the stationary heavy equipment such as blast furnaces and rolling mills.

But in Indiana, real estate taxes cover only land value and a building's structural shell. All other construction is covered as business tangible personal property.

CCC said that during the last eight years, records show that Inland's real estate assessment and its own estimate of the increase in its business personal property assessment have increased less than $40 million.

Yet during the last five years alone, CCC said the company has installed, and now has in production:

An 80-inch hot strip mill valued at $125 million.

An 80-inch cold strip mill valued in excess of $125 million.

Its number 4 Basic Oxygen Furnace, valued in excess of $70 million.

A new electric furnace, valued at $32 million.

If just these new facilities had been properly assessed, their total cost of $352 million—assessed under Indiana's one-third-of-fair-value formula—should have boosted the plant's assessment by at least $116 million, CCC contended.

The community group's officials plan to offer their critique through a series of questions at the stockholder meeting, asking Inland officers what value they place on various part of the plant.

The CCC charges represented the second attack this month by a citizen organization on the asessment of a major Chicago-area steel plant.

Two weeks ago, the Chicago-based Campaign Against Pollution (CAP), presented a detailed economic analysis charging that the U.S. Steel Corp.'s South Works, at 87th St. and Lake Michigan, has been undervalued by Cook County Assessor Cullerton by more than $118 million.

DECEMBER 4, 1970.

Mr. EDWIN H. GOTT,
Chairman, U.S. Steel Corp.,
New York, N.Y.

DEAR MR. GOTT: The time has come for you to take personal notice of the disastrous health, environmental, economic and social havoc caused by your corporation in America's largest company-town—Gary, Indiana. Blessed by the benign neglect of pliant government officials, United States Steel has pretty much had its way for over sixty years. As you know, Gary was a city created by the founder of U.S. Steel, Judge Elbert H. Gary. At the time of the founding of the city, Judge Gary said that it was intended to "secure right living conditions around a steel manufacturing plant." If that was the mandate of this company town, U.S. Steel's performance to date has been a miserable perversion of that goal.

Gary enjoys the dubious distinction of being engulfed by air which is among the most contaminated in the nation. While the Gary-Hammond-East Chicago metropolitan area is about 56th in the nation in terms of population, it ranks about 11th in the nation in terms of dirty air. The levels of air pollution—made up primarily of particulate matter and sulfur oxides—can only be compared to such metropolitan areas as Newark, Detroit, Boston and St. Louis. These areas have populations which range anywhere from three to seven times that of the Gary-Hammond-East Chicago area. In the City of Gary itself, U.S.S.'s coke plant and its subsidiary Universal Atlas Cement, each emit more than 200 tons of pollutants every day—more than two pounds for each man, woman and child in the city.

As you are well aware, the environmental violence perpetrated by your company goes far beyond aesthetic despoliation. City-wide averages of particulate concentrations are over 130 micrograms per cubic meter (ug/m^3) on an annual average. Levels are even higher in parts of the city where plants are particularly concentrated. The United States Department of Health, Education and Welfare reports that at levels of only 100 ug/m^3 persons over 50 years of age are subject to increased death rates and young children are likely to experience an increased rate of respiratory disease. At times readings in Gary have reached or exceeded 400 ug/m^3, levels which can only be described as lethal.

While contaminating the air residents of Lake County breathe, U.S.S. continues to pollute the Calumet River with impunity. The 1965 federal conference on the Calumet set forth an overly-lax implementation plan for the installation of adequate treatment in the Gary facilities. Despite this extremely permissive compliance schedule, a reconvened 1968 conference found that the Gary facilities were hopelessly behind schedule. As has always been U.S.S.'s standard practice in the environmental area, the company secured an extension on its plan until 1969. It has also missed that deadline. Right now, the company is, through the use of its indentured lawyers and technical personnel, stalling for additional time. In the meantime the company continues its daily effluent of thousands of gallons of phenols, cyanides and ammonia into the Calumet. As is the case with air pollution, the company's coke works are the worst offenders.

U.S.S. has historically used favorable tax rules written and administered by its minions in government to short-change the community which it owes so much. Despite an investment of literally hundreds of millions of dollars in the Gary works since 1960 (estimates range from 400 million to one billion dollars), the assessed value of the Gary property has barely changed in these ten years. The Gary works are actually assessed at a lower value for 1970 than they were in 1965.

U.S.S. has perpetuated this tax evasion by submitting valuation statements to assessors which stretch the credulity of objective observers. Nevertheless, they have been accepted without question by accomodating officials responsible for assessment. The company has also avoided public disclosure of the true value of its property by systematic law-breaking designed to obscure the company's true tax indebtedness to the City of Gary. Its hundreds of millions of dollars of new construction has been carried out without complying with the city ordinance requiring that the company secure building permits. While quite willing to pay a flat annual fee in lieu of applying for the permits, the company has steadfastly refused to comply with this most basic law. Its unwillingness to risk the disclosures which a permit would require has been dictated by a desire to keep the public from knowing the enormity of the company's undervaluation for property tax purposes.

U.S.S.'s tax evasion has taken its toll on the City of Gary. The city's fund for education—primarily dependent on property taxes—is nine million dollars below budget plans. Police, public health and other municipal services are also below what they could be if the company shouldered its fair share of the burden. The increased revenue that has been generated in recent years has been raised largely at the expense of the wage-earning taxpayer. Gary's small taxpayer is subsidizing the largest steel manufacturer in the world.

Of course, U.S.S. is not alone in the pattern of exploitation of the people of Gary and Lake County. It is joined by its sister steel companies and other powerful industrial firms in the area. But U.S.S. is the leader in a tightly-controlled industry centered in a tightly-controlled region of the nation. If there is to be a citizen demand for corporate accountability, the people will obviously turn to the Chairman of the United States Steel Corporation.

It is time for you to indicate a willingness to repay the unjust enrichment of U.S.S. which has been exacted at the cost of the health and welfare of its neighbors. You should be prepared to respond candidly to public requests for full disclosure of the information regarding the company's present operations and practices as well as its plans for the future. At such meetings you can tell the people what portion of the over 200 million dollars in annual profits will be used to counteract the increased incidence of disease, property destruction and depreciation suffered by your innocent neighbors.

Should you decide to examine conditions first-hand, I would be happy to accompany you on this visit. Other matters of high finance no doubt take up a large part of your time. But I find it difficult to imagine any corporate business more important than a dialogue with the people of Gary in order that you may witness what U.S.S. has wrought and what it could remedy.

I look forward to your reply and to hearing your ideas on how the company can bridge the gap between its promise and its present callous performance.

Sincerely,

RALPH NADER.

[Letter from Gary, Ind. Assessor to Business Taxpayers]

GARY, IND.

1966 SPECIAL INSTRUCTIONS FOR BUSINESS TAXPAYERS

Effective as of March 1, 1966, this office will look with favor upon an economic adjustment (Form 106) upon inventories; provided however that:

a. A Form 106 is filed.

b. The inventory adjustment of true cash value does not exceed 40% and the final inventory assessment is no less than 20% of cost.

c. Full disclosure is made from the accounting records kept by the taxpayer for federal income tax purposes.

An economic adjustment (Form 106) will also be looked upon with favor for new machinery and equipment less than 3 years old. Because of the liberal federal income tax depreciation schedules on machinery and equipment no set guideline will be used by this office for machinery and equipment economic adjustments, but each adjustment sought will be considered on the basis of the depreciation rate used by the taxpayer and its merits.

Within the assessing laws of Indiana and the rules and regulations of the State Tax Board, the above-mentioned guidelines have been adopted to make our business and industrial assessment climate more favorable, and to help a taxpayer reach a moral judgment to make full disclosure of his assessable property.

These "Fadell Guidelines" obtain only in Gary, Griffith and Calumet Township.

Your Friendly Assessor,

TOM FADELL,
Calumet Township Assessor.

[From the Wall Street Journal]

FISCAL FEUD—HOMEOWNERS CHALLENGE BUSINESS TAX BREAKS IN SOME COMMUNITIES

VALUATION PRACTICES AT ISSUE; CRITICS COMPLAIN INDUSTRY INCREASES MUNICIPAL COSTS

"We Comply With the Law"

By Danforth W. Austin and Jack Kramer

Augusta, Ga.—When the local Committee of 100 talks, county and city officials here usually listen. But sometimes they don't listen close enough. Then that arm of the local Chamber of Commerce flexes its civil muscle.

A year ago, for instance, a new napery maker in town, Paper Products Inc., got a 1969 property tax bill for $3,539.64. That was based on a state requirement that assessments on property should equal 40% of its market value. But that was $2,879.98 more than the Committee of 100 had recommended Paper Products be charged. Told about it, the Augusta-Richmond County board of assessors agreed on a refund, and the check was written out.

Next time is won't be easy. A passel of angry individual taxpayers has gone to court and got an injunction to stop 26 such informal tax breaks for new and established businesses here.

Once widely tolerated, tax breaks for business and industry are coming under sharper attack all over the country. Hard-pressed individual taxpayers complain that those breaks can't help but boost their own taxes, for the money to meet public budgets has to come from somewhere. And breaks to lure new industry are doubly unfair, they say, because new industries often increase school crowding, road damage and water pollution, all of which in turn balloons the cost of public services.

The business view

Corporate managers argue that tax breaks help promote prosperity by luring industry, thus boosting local payrolls and retail sales. Even with the breaks, they argue, businesses still pay plenty of taxes and are under no obligation to pay more than they legally are required to. In fact, they can use any legal means to reduce their burden.

So here in Augusta and elsewhere, citizens increasingly are responding by trying to change or more strictly enforce existing tax laws and procedures. They're challenging a variety of practices that tend to undervalue property for tax purposes and create a supposedly unfair gap between rates paid by business and by individual property owners. And they're questioning the aggressiveness of local tax ascent the business view.

In Gary, Ind., Calumet Township assessor Tom Fadell says his biggest customer in effect presents its own tax bill. That customer is U.S. Steel Corp., which supplies its own evaluation on its taxable property there, $540 million, on which it pays taxes of $21 million a year. U.S. Steel won't furnish the township figures on capital investments or depreciation schedules used to arrive at that value because, the company says, such data would aid competitors.

All this is no small fiscal issue in Gary, whose schools get half their budget revenue from property taxes and now are nearly $9 million in debt. The issue is naturally political, as well. Some people in Gary don't think assessor Fadell is pressing U.S. Steel hard enough.

"We comply with the law"

One of those people is Mayor Richard Hatcher, a reform Democrat who politically is at odds with the assessor. Two years ago, Mayor Hatcher sent an aide to examine U.S. Steel's books. The company got a court injunction against an examination on the ground that Indiana law allows only tax assessors access to its books.

And the assessor in Gary is Mr. Fadell. "I sent a CPA to Pittsburgh (U.S. Steel's headquarters)," he says, "and when he asked to see a capital investment breakdown for Gary, they told him they don't break down figures by location."

To make the matter murkier, there's Los Angeles County, Calif., where assessor Philip Watson says U.S. Steel does make such a breakdown, U.S. Steel explains the apparent inconsistency simply: "We comply with the law in both states."

Another figure in the controversy is Gary finance adviser Arnold Reingold. He says his own admittedly crude indirect calculations shows U.S. Steel has undervalued its Gary property by at least $110 million. He figures that 14% of U.S. Steel's employes are in Gary, and if the ratio of employes to taxable assets in Gary is just average, then 14% of U.S. Steel's plant, equipment, parts, supplies and inventories are there, too. Basing his calculation on balance-sheet figures for those items from the 1969 annual report ($4.6 billion), he arrives at a value of $650 million on U.S. Steel's property in Gary.

Plant Depreciation and Land

Moreover, Mr. Reingold says, U.S. Steel's balance sheet (its statement of assets and liabilities) values some assets at less than a tax assessor would value them. Land is carried on the books at its original cost. In Gary, he says, "Land bought in 1900 is carried at its 1900 price." Tax assessors, on the other hand, attempt to base assessments on current estimated market value.

The balance sheet shows plant and machinery at its depreciated value. Depreciation in theory reflects an asset's loss of value due to its wearing-out in use. But standard accounting requirements determine depreciated values, and those requirements don't necessarily correspond to price trends. For example, plant and machinery that may be fully depreciated on the company's books could have considerable economic, or market, value. In reply to all this, U.S. Steel reiterates that "we comply with the law."

Depreciation accounting also is at issue in a tax hassle in Savannah, Ga. So is low-tax industrial zoning. One Savannah industrial zone, created by special act of the 1950 Georgia legislature, gives its chief occupant, a Union Camp Corp. paper mill, fire protection and water from the city at a yearly rate of 5 mills (a mill is equal to one-tenth of a cent) per $1 assessed valuation. Other city property owners pay 25 mills, or 2.6 cents.

That has angered some individual taxpayers. The furor grew when they found evidence that Union Camp had been getting other tax breaks. A local newspaper disclosed that Chatham County had valued 109 acres of Union Camp land at $6 an acre. In theory that was the 40% of fair market value required by state assessment rules. To fuel the furor, the disclosure came about when Union Camp sold the parcel to the state parks department for $1,949 an acre.

G. Miner Peagler, Chatham County's chief tax assessor, raised the assessment on Union Camp's remaining 6,000 acres to $2.6 million from $119,330. The company objected, and the assessment so far has been arbitrated down to $744,655.

Union Camp denies it enjoyed preferential tax treatment and warns that higher taxes could hurt the company and the local economy. "It doesn't take much more tax to bring things to a point where they're not profitable anymore," warns P. J. McLaughlin, the company's comptroller.

Union Camp's troubles are far from over in Chatham County. "There's not much we can do about that (industrial) zone," says Richard Heard, an industrial developer who heads the Chatham County Taxpayers Association, "but we can sure put an end to any other tax breaks given Union Camp."

Even Ralph Nader is thrusting himself onto the scene. He charges that Union Camp and others have benefited from "tax bunco" conjured up by Chatham County officials to create a favorable climate for business. Specifically, a Nader-sponsored group attacks depreciation accounting at Union Camp. Though the company pays taxes on a valuation of no more than $90 million for its Chatham County facilities, the group says, estimates obtained from other paper companies put the current replacement value of those facilities at $375 million to $550 million.

Large Landholding

Across the country in California, The 100,000-member California Homeowner's Association is attacking the assessment on 400,000 acres near Bakersfield owned by Tenneco Inc., a major oil concern. Tenneco got the land in 1967 when it took over Kern County Land Co., and at that time the land was valued for tax purposes at $280 an acre. Even then, however, it was worth 10 times that, argues John Nagy, president of the association.

Some other citizens think so, too. "Roughly speaking, Kern was putting 1913 sales values on that land," says Howard Hawkins, then a Kern vice president, now a partner in Dean Witter & Co., the San Francisco-based securities firm. According to Kern's former public relations chief, Robert W. Jackson, the land was valued privately at $2,500 an acre by Dwight M. Cochran, then Kern's president.

Mr. Cochran declines to discuss the matter. So does Tenneco. "Now you're getting into one of those areas where we can't comment," says a spokesman.

Kern, however, did discuss the matter publicly in 1967. Faced with what turned out to be an unsuccessful takeover attempt by another company, Kern ran an advertisement in this newspaper saying that the other company "fully appreciates that our 1.8 million acres of land are carried on our books at a fraction of their market value." (Besides the 400,000 acres near Bakersfield, Kern owned large holdings elsewhere.)

Valuation Is Tricky

Researchers for the homeowners' association say an analysis of tax records indicates that the Bakersfield land now is valued at $265 an acre—about $15 an acre less than in 1967. They say their analysis discounts the effect of reduced assessments on land that California law, since 1967, has permitted to be placed in low-tax "agricultural preserves." Kern County tax assessor Herbert Roberts says he'll "bet a steak dinner" that assessments actually have increased on that land, but he says he doesn't have the figures at hand.

Assessors point out that determining the value of large tracts is tricky because they don't change hands often and, consequently, a recent market price isn't available. Also, they say, lower valuations on large tracts that haven't been subdivided (surveyed and mapped lot by lot) are justified because subdivision costs money and because the land isn't readily marketable until it is subdivided.

Many small taxpayers are unsatisfied by such explanations.

[From the Atlanta Journal and Constitution]

RICHMOND COUNTY'S LURE—TAX BREAK FOR BUSINESS

By Ken Boswell

August, Ga.—More than 10 years ago, a group of Augusta's leading citizens looked around themselves and saw that their city—once a thriving business community—was in danger of becoming economically stagnant.

The Savannah River Plant, located across the Savannah River in Aiken County, S.C., had brought on a booming economy for the Augusta area a few years earlier. But, since then, nothing had happened to maintain the forward motion.

New industry, the leaders decided, would provide the necessary shot in the arm. It would bring new jobs, increase the economic level, boost the tax income and, in turn, elevate the activity for businesses already located in Augusta and Richmond County.

But how, they asked, could they bring industrial expansion to their town? Other cities, with just as much to offer, also were competing for new firms.

What August needed was a little something extra to attract new members to their industrial community.

The "little something" turned out to be tax breaks.

Let the industrialist know that, if his firm built a new plant in Augusta, the tax rate will be as low as he would find anywhere, the local leaders said.

And so, the Committee of 100 was formed as an industry-seeking group.

A formula, contrary to state law, was worked out so that incoming industry would be taxed at 12½ percent of the normal rate for the first five years. The Committee of 100 was authorized to negotiate with the firms and to offer the tax concessions—with the approval of city and county government.

It didn't take long for the word to spread. Soon, industries were flocking to Augusta and Richmond County. An industrial park, the Miracle Mile, was established to give additional incentive.

Multi-million-dollar factories were built in Richmond County at an astounding rate. There were Continental Can Co., Proctor & Gamble and Columbia Nitrogen Corp., to name a few.

But somehow, the tax concession policy got out of hand. Before long, businessmen already in Augusta were asking for the same consideration given to the newcomers who were locating in the area.

One of the first local groups to receive a tax concession was National Hills Shopping Center on Washington Road.

Chief Tax Appraiser Robert I. Brown, who was the city-county tax assessor at the time the shopping center went on the tax books in 1966 received a letter

from the county's board of tax assessors, authorizing the 12½ percent concession "for at least the first five years after completion of construction."

Brown received another letter from the Committee of 100, giving the group's approval to the tax shelter.

Another Augusta group built The Five Hundred Building, an office facility, within sight of the city-county building a few years later.

A different type of concession was given for the multi-story building.

Gorham Boynton is listed as president of the Five Hundred Building, Inc., and William A. Garrett, a member of the local Board of Tax Assessors, is secretary and treasurer.

The Five Hundred Building was constructed on the corner of Greene and Fifth streets, on property which had been a near-slum area. It replaced several dilapidated buildings.

Under the tax shelter agreement, which was just for the year 1968, the owners of the building paid taxes based on the value of the land and buildings which were on the lots before the office structure was built.

In that year, The Five Hundred Building's tax assessment was $31,900, and the owners paid $1,180.30 in property taxes.

The following year, The Five Hundred Building was valued at $556,000, with a standard 40 percent tax assessment of $222,400.

But, again the owners asked for some help on their taxes, and the value was reduced to $400,000 with an assessment of $160,000. They paid $6,240 in property taxes.

In 1970, the owners asked for the same assessment, but the tax value went up to $170,000, and a tax bill for $6,800 was mailed to them.

But the Five Hundred Building, the shopping center and all the industries aren't doing so well with their tax situation any longer.

In fact, many of the sheltered firms are now faced with astronomical increases in their taxes—thanks to a group of homeowners who took the county to court.

As a result of the suit, some of the 1970 tax bills were for 10 and 12 times as much as the firms had paid the year before.

But that doesn't mean that the industries are giving up their money without a fight.

[From the Atlanta Journal and Constitution]

RICHMOND COUNTY TAXPAYERS FOUGHT OVER TAX BREAK

By Ken Boswell

Augusta, Ga.—Sometimes, the taxpayer is apathetic about his money.

Such was the case in Augusta and Richmond County for years.

Despite news stories in which local officials readily admitted that several large industries and businesses were receiving the concessions, the public failed to act, until 1970.

In September, a group of taxpayers finally took the county to court to contend that almost every major industry which had come into the community in recent years was paying less than its fair share of the tax burden.

All of the county's superior court judges disqualified themselves, and Justice Walter C. McMillan Jr. of the Middle Judicial Circuit was called in to hear the case.

According to Georgia law, taxes must be assessed at 40 per cent of the fair market value of a piece of property. Many industries in Richmond County were paying 12½ per cent of the "normal computed tax," according to City-County Tax Appraiser Robert N. Brown.

In other words, the normal taxes due on a $1 million industry, assessed at 40 per cent of the market value and based on a 40-mill tax rate, should be $16,000.

But, using the formula outlined by the industry-seeking Committee of 100 and supported by local government, the $1 million firm would pay $2,000. The concession usually was granted for a five-year period.

The same formula was applied to any later expansion projects at the plant.

Brown said that, at the time the suit was filed last year, 32 industries and businesses were receiving tax concessions.

On Sept. 23, 1970, Judge McMillan ordered all tax shelters removed from the tax books.

On Feb. 2, 1971—more than four months later—the Richmond County Commission approved a state and county tax refund of $1,402.58 to Paper Products, Inc., in compliance with a tax concession agreement with the Committee of 100.

The Richmond County Board of Education received a similar request for a $1,476.40 refund to the same company, but county Treasurer Moye L. Daniel said the school board refused to pay.

The total refund—requested by W. Roscoe Coleman, chairman of the Augusta-Richmond County Board of Assessors—would have come to $2,8778.98. If both refunds had been approved. Paper Products would have paid $660.66 in state, county and school board taxes for the year.

County Attorney Franklin H. Pierce explained that the refund was for 1969 taxes and, therefore, represented a commitment made before the court ruled against tax concessions.

But tax concessions were illegal before the court ruling was issued.

When Judge McMillan issued the order, the city-county tax office began work immediately to eliminate the discrepancies from the assessment records.

But very little of the tax money came into the tax commissioner's office as a result.

Brown said 28 of the 32 firms receiving tax concessions applied for arbitration as soon as they received their revised tax bills in 1970.

The reason for the challenges becomes obvious upon examination of the new taxes:

Columbia Nipro Corp.'s property tax bill increased from $2,386.02 in 1969 to $16,447.20 in 1970, a hike of 585 per cent.

Cox Newsprint paid $2,076.75 in 1969 taxes and was billed $24,201.20 for 1970, representing an increase of more than 1100 per cent.

The Kendall Co.'s tax bill went up 720 per cent, from $4,484.22 in 1969 to $36,792 in 1970.

But Continental Can Co. probably the county's largest industry, did not challenge its 1970 tax bill according to records in Brown's office.

Continental Can paid $74,866.35 in property taxes in 1969, and the firm's 1970 bill for property came to $105,606.80—an increase of only 41 per cent. The company's total tax bill, including machinery and equipment, was $142,160.40 in 1969 and $305,241.60 in 1970, for a percentage increase of 114 per cent.

Brown contends that the tax concessions "never cost the taxpayers a penny." He explained that the taxes paid by the industries were "many times more than the land was bringing in before they came in."

While the county residents were successful in defeating the tax concessions for industry in Richmond County, they paid little attention to several pieces of property owned by individuals and smaller businesses in the county.

For example, four Richmond countians—including behind-the-scenes political leader R. W. Best and Richmond County school board member John Fleming paid $33,000 for about 26 acres of land on Scott Nixon Memorial Drive in 1968.

A year and a half later, they sold 1.85 acres of the land for $14,000 to Southern Roadbuilders, Inc.

But the fair market value of the entire 26-acre tract was according to the official Richmond County tax appraisal was $1,190 in 1969, and in 1970, it went down to $300.

The Mid-South Corp. paid $41,500 for a 37.5-acre tract off Powell Road in November, 1967. The 1968 city-county appraisal on the property was $17,930.

Claussen-Lawrence Construction Co. bought 30.5 acres of land on Interstate 20 in 1967 and paid at least $76,500. The land was appraised by the city-county appraisers the following year at $30,510.

In January, 1968, Janka, Inc., paid $48,300 for two tracts of land on Old Savannah Road. The appraised value of the two pieces of land came to $11,340.

City-County appraiser Brown said property cannot always be appraised at the price for which it was sold. He said that comparative prices for land in the same area must be considered when setting a value on a piece of land.

And Peter Drost, chairman of the Augusta-Richmond County Board of Tax Assessors, agrees.

"It's an educated guess," he said.

[From the Atlanta Journal and Constitution]

TAX BREAKS EVAPORATE

By Ken Boswell

Last month Procter & Gamble's Paper Products Division announced plans for a $50 million plant near Albany.

According to Mayor Eugene Clark, the city and county government's only contribution to the firm is the providing of utilities to the site.

"We didn't have to offer Proctor & Gamble anything," Clark said, "They came to us. We just happened to have what they wanted, and we were located in the right place at the right time."

"What kind of arrangements did you make with them for payment of local taxes?" a reporter asked.

"You won't believe me," the mayor replied. "There were none. Of course, we did agree to run the necessary utilities to them."

Albany and Dougherty, like many other Georgia communities, have thus utilized a legal method of obtaining some industries in the past.

But never, according to Clark, has the city offered a tax concession to an incoming industry.

Under the Payroll Development Authority, created by an act of the Georgia General Assembly, the city and county have helped several industries, including a large Firestone tire plant and a textile firm.

The authority issues revenue certificates to purchase land for industry, then leases the land to various firms at an equitable rate, which pays off the certificates over a given period of time, according to Clark.

Upon retirement of the certificates, the firm has the option to purchase the land.

During the period of the lease, the factory pays taxes on its machinery and equipment.

"This would be the only way they (industry), could get a tax break through us," Clark said.

Macon operates under a similar system, according to Delbert Leggett, chairman of the Macon-Bibb County Board of Tax Assessors.

The Bibb-Macon Industrial Authority, operating with city and county funds, may own land and sell or lease it to incoming industries. The leases are based on the local tax rates, according to Leggett.

Columbus, like Macon and Albany, has refused to give illegal tax concession to industries, the way Augusta and Richmond County did until they were stopped in court last year.

Until a superior court judge ordered the change last September, 32 Richmond County industries were paying taxes on 12.5 per cent of the normal computed tax on their properties, in an industry-attracting endeavor which started more than 10 years ago.

"I hope now the race is over, this competing for industry," said Clark.

"Macon may be way down the totem pole in getting industry," said Leggett, "and it may be because we don't give them any concessions. You find any concessions to any industry in our books, and I'll eat it.

"If you give a concession to an industry," Leggett continued, "then you ought to give a concession to a mill hand."

Myron Hamilton, property appraisal director for the City of Columbus, agreed with Clark and Leggett.

"It would be very difficult to treat a new industry different from an old industry," Hamilton said. "If we should treat them differently, then we would have a bad situation on our hands.

"And," Hamilton added, "it's a lot safer to follow the law."

While some of Georgia's major cities have used tax concessions to bring in industry—Savannah and Augusta in particular—Columbus has taken a different view.

The city is proud of its newest major industry, a $7 million Dolly Madison bakery, although the size is small compared to the $30 million-plus Continental Can Co. plant in Richmond County.

Local industrial leaders are quick to admit that they let Savannah and Augusta get ahead in the industrial race, and now they're ready to do something about it—almost anything, short of offering tax breaks.

"We let Augusta get the jump on us," said Andrew Speed, a former Augustan who is immediate past persident of the Columbus Chamber of Commerce.

"We just don't have any land under our control," added Joe J. Flowers, the new chamber president.

"Many of our competing cities and many of our competing states already have industrial authorities in being," Flowers said, adding that the Columbus chamber can show a prospective industry, an available piece of land, then tell the industry, "You'll have to make you a deal with the owner of the property."

Speed readily admits that communities offering tax concessions have taken the initiative.

"This town has not been in a progressive, or an aggressive mood, except in the last four or five years," he said.

Speed said the birth of a "Build Columbus Plan," a few years ago, has pumped new life into the city.

With a $200,000 budget ($100,000 of it for industry hunting) Columbus should be on the move soon, Speed said.

Speed said Augusta's Committee of 100, the organization which coordinated the tax concession negotiations with prospective industries, was one of the prodding factors in Columbus' present industrial drive, although he and Flowers attributed most of the motivation to new executive leadership in the chamber at the beginning of the "Build Columbus Plan."

Speed who is employed by Georgia Power Co., expressed a resentment for the tax concession as an inducement to industry:

"If we could all play by the same ground rules, it would be all right . . . If each (city) would fight on equal grounds, then the concessions should be out of the window and each would pay his own way. My company pays (its fair share of taxes), and so should everybody else's."

But Peter Drost, chairman of the Augusta-Richmond County Board of Tax Assessors, doubts that other communities could get new industry without some inducement.

"I don't care how they do it," he said. "They've got to give them (industry) something. They may not give concessions, but they have to lower the property value or something."

Many tax officials throughout Georgia feel that the solution to the industrial tax problem should come through a totally new assessment program under state officials.

Under the present system, county governments make their own assessments, and the county collects state taxes—a fourth of a mill—in addition to its own taxes.

Such a system, argue some tax experts, is unfair, since property values may be on a lower scale in one county than in another. The result is that an industry in one community pays less proportionately, than a similar industry in another community.

By turning tax assessment powers over to state department, a more uniform taxing system for industry would result, the fiscal officials say.

"Tax concessions to industry, and low property values, are costing this state millions of dollars a year in county and state taxes," said one official.

[From the Atlanta Journal and Constitution]

FACTORY-HOME TAX GAP SEEN

By Ken Boswell

Savannah, Ga.—Georgia cities often are bidding for new industry against stiff opposition from other U.S. cities and that's how things got started with the Union Camp Corp., Savannah's largest industrial complex.

Many years ago, Savannah and Chatham County made an offer to what was then the Union Bag Co.

If the firm would build a large plant in the county, in an industrial zone adjacent to the city of Savannah, the city government would provide fire protection, water and other services for a 5-mill annual tax levy.

And, the local leaders provided additional insurance to the firm through a legislative act which prohibits annexing the Union Camp property into the city.

In 1970, city taxpayers paid taxes at the rate of about 26 mills for the same services Union Camp is getting for a 5-mill rate according to Richard Heard, president of the Chatham County Property Owners Association.

Heard also said that the tax levy on Union Camp—and other firms located in the industrial zone—includes only "the land and the four walls" of the plant, and that machinery, equipment and inventory are excluded.

In the mid-1960s, a Florida-based valuation firm conducted a revaluation program in Chatham County.

"They gave up on doing (revaluation) on industry, and said, 'just take Internal Revenue Service values,' which mean nothing," Heard said.

Heard contends that Union Camp's taxable values dropped about $300 million because, under the IRS taxing system, depreciation of industrial equipment would have reduced the firm's worth by that much over a 10-year period.

After an industry has been on the federal tax books for 10 years, Heard said, "the (machinery) taxes have been written off."

Heard and his organization contend that industries in Chatham County are paying taxes on "about 20 to 22 per cent of their values," while homeowners are paying on between 100 and 160 per cent.

Union Camp owns several thousand acres of land on Skidaway Island, some of it valued on Chatham County tax books as low as a dollar an acre and some as high as $250 per acre.

But, when the Ocean Science Center of the Atlantic wanted to buy land on the island, Union Camp offered it at an appraised value of about $2,000 per acre, Heard said.

Basically, the same appraisal figures were used when the State of Georgia needed about 100 acres for a state park, Heard said.

When the sales were made public, Heard said local tax officials set a new value of about $428 per acre for the Union Camp property.

According to tax records, the Skidaway Island property was revalued several times in 1970.

The original appraisal for that year was $115,400 for the land, but that was reduced later to $113,260. Then, after the re-appaisal, the land value jumped to $2,573,690.

But Union Camp requested arbitration, and the value was reduced to $770,465—an increase of $655,065 over the original appraisal.

Tax officials, dissatisfied with the arbitrated figure, took Union Camp to court, and the case is tentatively scheduled to be heard late this month in superior court.

Union Camp and other Chatham County firm also benefit from a value reduction procedure for "low" land.

On the 1970 tax books, Union Camp is reported to have paid taxes on 21 pieces of land. There were value reductions—ranging from five to 65 per cent—on 19 of the tracts.

The reductions totaled $364,000.

Largest single reduction was on a 2,442-acre tract of land on U.S. Highway 17 South.

On the property tax card, the land is appraised at $100 an acre for a total value of $244,210.

The card also contains an appraisal of $550 for "added timber value" and another tract of land valued at $4,740, for a total appraisal of $249,400.

But, at the bottom of the itemized list, there is another entry, "Less 50 per cent low—$122,100."

With the deduction, the company paid taxes on a reduced appraisal of $127,400 on the two pieces of land and the timber, all valued at $249,400.

J. W. Neal, supervisor of the Field Appraisal Section of the county's tax assessing office, said the reductions do not represent tax concessions to the industries which have the "low" deductions.

He said that the reduced values "weren't reductions as such. They were what you'd call a method of arriving at land value."

Neal said some of the reductions were authorized by the board of tax assessors and others were okayed by Hunnicutt and Associates, the firm which conducted the revaluation.

If any appraisals were changed, Neal said, "the man had a legitimate complaint."

"Why were there more value reductions on Union Camp property than on other taxpayers' land?," Neal was asked.

"I didn't say there were more," he replied.

Neal explained that, while Union Camp is one of the county's largest landowners, much of the land is so useless "the only thing it can be used for at the present is to raise trees."

Union Camp employs about 5,200 persons in the production of kraft paperboard, bags and containers and chemicals, according to the Georgia Department of Industry and Trade.

"Why use two sets of figures, one giving the full value and another giving the reduced value?," he was asked.

"If you cure your ills with drainage, then what is the land worth?" Neal said. "How much good would one ditch do to it? You treat land the same way you treat houses. If you cure your ills, then you have the value. If you don't cure your ills, there is no value."

That, apparently, is why some of Union Camp's property is worth only $1 per acre—for tax purposes.

ARTICLES AND REPORTS—PROPERTY TAXATION OF COAL IN APPALACHIA

REPORT OF AN INVESTIGATION

EDUCATION IN KENTUCKY: A LEGACY OF UNKEPT PROMISE

National Education Association Commission on Professional Rights and Responsibilities

PART II. THE CHARGE: KEA LEGISLATIVE PROPOSALS

In this section, the NEA Special Committee presents its findings with respect to each of KEA's complaints in support of the charge that—

Governor Louie B. Nunn and the 1970 General Assembly of Kentucky have failed in their responsibility to provide sufficient funds to support the public schools of the Commonwealth, and they have impeded local effort on the part of school boards and the organized teaching profession, to improve the quality of public education.

> *1. The Governor did not recommend and the Legislature did not enact certain tax measures at the state level, and more stringent standards for enforcement of equitable property assessment at the local level, which would make available unutilized revenue potentials required to finance education.*

In his response to this complaint, Governor Nunn stated:

> Any additional tax levy must first be considered within the framework of the state's total revenue program and its relationship to economic growth. Emerging industrial states such as Kentucky must maintain a fair, balanced and competitive tax structure or else our schools would continue the unfortunate tradition of educating our young people for jobs that are available only outside the state.

A fair, balanced and competitive tax structure is, without question, a basic ingredient of good government. The Special Committee would submit, however, that in an emergency industrial state such as Kentucky, the maintenance of a competitive tax structure at the expense of public education may have the unfortunate effect of forcing those industries that have been attracted to the state by its favorable tax climate to recruit their professional and technical personnel from outside the state.

The economic, as well as the social, consequences of an undereducated citizenry are unarguable. They are clearly observable in the nation—and in Kentucky. The states that have had most rapid economic growth in this country have not been the states with the lowest tax levels; they have been characterized by a generally high quality of governmental services and by a relatively high level of educational attainment among their population. Conversely, the states with historically lagging economics and low personal incomes—most particularly those in the

Southeastern region—have trailed the nation in state and local taxes, in educational attainment, and in the effectiveness of state and local government to serve the general public interest.

As preceding sections of this report have shown, while Kentucky's sizeable increases in state tax effort during the 1960's have facilitated important public school improvements, they have not significantly changed its educational support and attainment levels in comparison with national averages or with neighboring states. And while Kentucky has experienced rapid industrial growth in recent years, it remains, in terms of personal income levels, a poor state. Poverty has been so long and deeply entrenched a fact of life in some regions of the Commonwealth as to have cast a pall of resigned and cynical fatalism over the people. What has been characterized as "voter apathy" might more correctly be described as hopelessness that government—local, state, or federal—can or will do anything to improve the quality of life, to make living more than a matter of mere subsistence, or that one individual vote could make a difference with a governing establishment that is seen as indifferent to the economic and educational needs of the people. It should be clear that without significant progress toward equalizing the educational and economic opportunities afforded citizens in all regions of Kentucky, there can be no real basis for the growth of a healthy and balanced economy in the Commonwealth.

Even to those who would measure progress in solely materialistic terms, it should not seem unreasonable to assume that the quality of public education and other public services that a state can offer is at least as important a factor in its ability to attract industry as low tax rates would be. This point was emphasized by the editor of the Louisville *Courier-Journal* in his testimony to the NEA Special Committee:

> There are many executives of big corporations who dread moving, frankly, out of the eastern seaboard . . . because they think they're going into a kind of intellectual and educational wilderness. We've got to combat that. We have seen this very much in trying to lure certain industries in Louisville. They have wanted to ask us not just about freight rates and how much it costs to ship their products by water, and how close we are to centers of population and all those things—these are certain advantages we have. . . . But I've never known an instance to fail that they always ask about our educational system.

The crucial questions for Kentucky's citizens, then, are not whether the funding of education and other public services can be tailored to fit into a "competitive tax structure"; rather, the question that should be raised is, Can the revenue capacity of the Commonwealth be expanded sufficiently to permit a more nearly adequate investment in what is surely the most valuable resource for the future of any state—its human resource? Evidence presented by financial and tax experts in Kentucky clearly indicated that Kentucky does have the revenue potential to achieve the vitally important objective.

TAXATION IN KENTUCKY: EFFORT VS. ABILITY

At the present time, Kentucky is using the two major sources of state tax revenue—the general sales and income taxes. Only one other state, Pennsylvania, exceeds Kentucky's 5 percent sales tax rate. As will be seen, local districts are making only minimal use of the property tax, the third principal tax resource of most states.

During 1969, state and local tax collections absorbed 9.7 percent of personal income in the Commonwealth, which represented a relatively low tax effort, ranking thirtieth and amounting to 93 percent of the average tax effort among the 50 states. However, when this effort is adjusted by a statistical weighting process to compensate for the state's low per capita income, Kentucky moves up to sixteenth place in the nation. Only three other Southeastern states exceed this ranking: Mississippi—first, West Virginia—second, and Louisiana—sixth.

By this adjusted measurement, then, Kentucky's tax effort is relatively high—and necessarily so, as in any poor state, according to Don M. Soule, professor of economics at the University of Kentucky:

> Kentucky ranks low among the fifty states in terms of personal and per capita income, but despite its relatively low economic position it attempts to provide a level of government service consistent with other states. This necessitates a tax burden on Kentucky citizens above the average for citizens of all states. . . .

> High family tax burdens are a constant inspiration for proposals to reduce taxes. The main danger in these proposals is that they would reduce total tax revenue and, therefore, force a reduction in the level of government expenditures. . . . the total result of any tax reforms must *not* reduce the Commonwealth's total tax revenue or cripple the revenue capability of state and local tax systems. *An adequate level of government services is important in making the state an attractive location for economic activity.* (Emphasis added.)

Testimony and documents presented to the NEA Special Committee during this investigation made it clear that, despite Kentucky's relatively high tax effort, its total state and local revenues could be increased by many millions of dollars, and at the same time, a more equitable and progressive tax structure could be achieved. The data contained in Table 11 show the extent of over- and under-utilization of every tax source in Kentucky in 1969, measured against the 50-state average utilization of each of these tax sources.

TABLE 11.—KENTUCKY UTILIZATION OF STATE AND LOCAL TAX POTENTIAL, 1969

Type of tax	Amount collected above yield collectible at average rate	Amount collected below yield collectible at average rate
General sales and gross receipts	$70,263,000	
Selective sales and gross receipts:		
Alcoholic beverage		$5,163,000
Tobacco products		16,119,000
Insurance	3,089,000	
Public utilities		16,797,000
Amusements and admission		545,000
State death and gift		2,660,000
General property		171,924,000
Individual income	25,979,000	
Corporate income		11,715,000
State alcoholic beverage license		818,000
Motor vehicle license		13,745,000
Motor fuels	4,645,000	
Severance		16,666,000
Total	103,976,000	256,152,000
Net unutilized potential (excess of below average yields over above average yields)	152,176,000	

Source: Quindry, Kenneth E., Statistical Supplement to State and Local Revenue Potential, Atlanta: Southern Regional Education Board, table A–19 (forthcoming).

> Kentucky made greater than average use of four tax sources: the general sales tax, the selective sales and gross receipts tax on insurance, the individual income tax, and the motor fuels tax. The total amount of overutilization of these taxes was $103.9 million.
>
> Compared to the national average, Kentucky *under*utilized 10 tax sources. The potential revenue increase from these taxes amounts to $256.1 million.
>
> Subtracting the excess of revenues shown in Column 1 from the amount of unutilized taxes in Column 2 leaves Kentucky with a net unutilized revenue potential of $152.1 million.

These date were presented to the Special Committee by Kenneth Quindry, Research Association Professor, Center for Business and Economic Research, the University of Tennessee. Among the points emphasized by Dr. Quindry were the following:

> The fact that Kentucky has exceeded the average effort in general sales and income taxation does not mean that the Commonwealth has overextended itself or that it should consider tax reductions in these areas. With respect to the income tax particularly, Quindry's computation of the average yield is based on figures from all the states, including those that have no broad-based individual income tax. If the comparisons included only the states that do make use of this tax source, Kentucky's overutilization would appear much less.
>
> The relatively heavy use that Kentucky has made of general sales and individual income taxes, as opposed to the taxation of businesses and extractive industries—the burden of which might be partially shifted outside

the state to absentee corporate ownership and to buyers of exported products—suggests that the state has emphasized the kinds of taxes that bear most heavily on individual and family incomes.

Dr. Quindry further pointed out that if Kentucky had matched the 1969 national average of taxes as a percent of personal income—10.4 percent—the total state—local tax collections in the Commonwealth would have exceeded actual collections by $60 million.

Thus, when Kentucky's tax effort is compared to national averages—whether in terms of average tax yield from specific revenue sources, or of taxes as a percent of personal income—it becomes evident that the revenue potential of the Commonwealth and its localities is sufficient to make significant improvements in the level of support provided to public education and to other public service areas as well.

Estimates of Revenue Potential from Specific Tax Sources.—Table 12 shows estimates, provided by J. E. Luckett, Kentucky's Commissioner of Revenue, of the amount of potential tax yield that the Commonwealth could anticipate from eight tax sources:

TABLE 12.—POTENTIAL AMOUNTS OF REVENUE WHICH MIGHT HAVE BEEN REALIZED IN 1970–71

	Millions
1. 1¢ per pack increase on cigarettes	$4.3
2. Severance tax:	
a. 5 percent tax on gross income from mineral property	25.0
b. 10¢ per ton as proposed in HB 301 in 1970	15.0
3. 1 percent sales tax on services:	
a. Parking, laundry, repairs, etc	5.0
b. Professional	3.5
c. Advertising	.5
d. All combined	9.0
4. Soft drink tax as in North Carolina	10.0
5. 1¢ gasoline tax rate increase	15.0
6. 1¢ increase on parimutuel betting	1.25
7. 20 percent increase in insurance premium rates	2.5
8. 1¢ sales tax increase	55.0

Thus, according to the Commissioner's estimate—and depending upon the type of severance tax used—Kentucky would have realized an additional $122 million, or $132 million, had the above sources and/or rates of taxation been in effect in 1970–71.

The NEA Special Committee received another estimate of additional revenue potential from John F. Due, professor of economics at the University of Illinois. Dr. Due based the following analysis and estimate of tax potential upon a comparison between Kentucky's yield from various taxes and those in selected states making effective use of the same tax sources.

SALES TAX

The Kentucky sales tax yielded $248 million in fiscal 1969 and $268 million in fiscal 1970. Since the rate is already at 5 percent, no increase was considered. There are two sources of additional revenue:

1. Application of the sales tax to rental of tangible personal property and to a wide range of services rendered by commercial (as distinguished from professional) establishments along the lines followed in Iowa (laundry and dry cleaning, beauty parlors and barber shops, repair of all types, etc.). This change would add roughly 10 percent to the yield of the tax, bringing in another $70 million for the current fiscal year.

2. Improved sales and use tax audit program. Kentucky has a long-standing record of excellent tax administration. But at the moment the number of sales tax auditors is seriously inadequate; on the basis of time allocated to sales tax audit, there is only one auditor per 2,680 accounts; the optimum would be one to perhaps 700 accounts. The increased audit coverage would yield several times as much revenue as the cost, and add perhaps $2 million net to state revenues. To get a larger audit staff, more positions must be authorized and higher salary levels provided to attract competent persons. The standards of audit personnel are high, but the salaries are not high enough to attract sufficient numbers.

CIGARETTE TAX

The cigarette tax, at 3 cents a package, is one of the lowest in the country. The 1969 yield was $11 million. The rate could be increased to 9 cents without going out of line with other states; it could go to 12 cents without exceeding the rate in some. A 6¢ per pack increase would add $22 million revenue.

PERSONAL INCOME TAX

The personal income tax yielded $108 million in 1969, $121 million in 1970. If the Kentucky coverage, exemptions and rates were adjusted to the levels of the tax in Oregon, the additional revenue would be at least $100 million, after adjusting for the somewhat higher per capita real income in Oregon. With considerably less population and total per capita income, Oregon received $213 million from the tax in 1970.

CORPORATE INCOME TAX

Kentucky received $39 million from this tax in 1969. If a uniform rate were used and Federal income taxes made nondeductible, an estimated $30 million additional could be obtained.

In summary, the additional potential yield from the above-suggested tax sources is estimated as follows:

	Additional revenue (million)
Sales tax:	
Taxation of specified services	$70
More extensive audit program	2
Cigarette tax, increase of 6¢ a package	22
Personal income tax, adjusted to level of Oregon tax	100
Corporate income tax, raised to uniform 77 percent, federal tax nondeductible	30
Total	224

In presenting these estimates, Dr. Due stated: "These changes would not push the Kentucky tax structure out of line with the states generally and particularly with those competitive for industry." (Emphasis added)

It should be noted that the present 3¢ per pack cigarette tax in Kentucky (raised from 2.5¢ per pack by the 1970 General Assembly) is among the lowest in the nation. Only two states, Virginia and North Carolina, have lower rates. It is argued that a higher tax, by raising the price of cigarettes, would reduce purchases and consequently reduce income for Kentucky's tobacco farmers. Soule and Lile, in Some Problems of Equity and Adequacy in Kentucky's State–Local Taxation, answer this argument effectively:

While a higher selling price will always bring some reduction in the quantity sold, this reduction would be small in the case of cigarettes because demand for cigarettes has always shown little response to price increases. Probably fewer cigarettes would be sold *in Kentucky* to visitors from out of state who presently take advantage of its low tax rate. But the Kentucky tobacco farmer's income does not depend on where cigarettes are sold, but merely that they are sold. It must be remembered that the demand for cigarettes is world wide and Kentucky's demand for cigarettes constitutes less than 1 percent of the total demand. There is some slight possibility that a higher cigarette tax rate in Kentucky might lead to higher rates in other states (by the process of interstate comparison to determine what is normal), and a nationwide increase in rates would reduce tobacco sales slightly. But the average of cigarette tax rates in other states has in recent years risen to approximately four times the Kentucky rate, indicating that Kentucky tax policy has had little effect on other states.

One major step that the Commonwealth might take in the direction of more progressive taxation—that is, taxation that extracts an increasing percentage of incomes as the income level rises—would be to remove the provision allowing deductibility of federal income tax payments from individual and corporate income taxes paid in Kentucky. Kentucky is one of the 15 states providing for deductibility of the federal tax in computing state taxes on individual income, and one of the 12 states that have such a provision for taxing of corporate income.

At present, tax rates on individual incomes in Kentucky are graduated from 2 percent of the first $3,000 of net income after personal deductions to 6 percent of net incomes over $8,000. Because of the federal tax deductibility provision, how-

ever, the *effective* rate on higher income levels is considerably less than 6 percent. The higher the individual income and consequent federal income tax payment, the greater will be the revenue loss to the state as a result of the federal taxes deducted. It can be readily seen, therefore, that this provision curtails the productivity of the Kentucky income tax and makes it a less progressive and less equitable tax—since, undoubtedly, the more equitable forms of taxation are those that impose higher rates on those most able to sustain the burden of taxation. Dr. Soule, in his testimony before this Committee, estimated that removal of the federal deductibility provision on corporate incomes in Kentucky would produce an additional $20 million and that repeal of this provision with respect to individual incomes would yield $32 million more in income taxes to the state.

SEVERANCE TAX

In his book, *Night Comes to the Cumberlands*, Harry Caudill, Kentucky lawyer and former legislator, described the economic and human tragedy of Eastern Kentucky—and of the Appalachian region in other states, as well:

> The present crisis is compounded of many elements, human and material. They have produced what is probably the most seriously depressed region in the nation—and the adjective applies in much more than an economic sense. They have brought economic depression, to be sure, and it lies like a gray pall over the whole land. But a deeper tragedy lies in the depression of the spirit which has fallen upon so many of the people, making them, for the moment at least, listless, hopeless and without ambition.
>
> The essential element of the plateau's economic malaise lies in the fact that for a hundred and thirty years it has exported its resources, all of which—timber, coal, and even crops—have had to be wrestled violently from the earth. The nation has siphoned off hundreds of millions of dollars' worth of its resources while returning little of lasting value. For all practical purposes, the plateau has long constituted a colonial appendage of the industrial East and Middle West, rather than an integral part of the nation generally. . . .
>
> From the beginning, the coal and timber companies insisted on keeping all, or nearly all, the wealth they produced. They were unwilling to plow more than a tiny part of the money they earned back into schools, libraries, health facilities, and other institutions essential to a balanced, pleasant, productive and civilized society. The knowledge and guile of their managers enabled them to corrupt and cozen all too many of the region's elected public officials and to thwart the legitimate aspirations of the people. The greed and cunning of the coal magnates left behind an agglomeration of misery for a people who can boast of few of the facilities deemed indispensable to life in more sophisticated areas, and even these few are inadequate and of inferior quality.

Kentucky's vast mineral wealth is one source of revenue potential to which the NEA Special Committee has given particular attention. The greatest portion of this wealth in Kentucky lies within the major coal-producing counties in the southeastern part of the state—that area described as the Cumberland Plateau. It is the conviction of this Committee—based on testimony and sound evidence—that economic and social rehabilitation of these poor-rich counties is essential if Kentucky is ever to achieve a healthy economic balance and if equality of educational opportunity is ever to be a reality for the young people of the Commonwealth. A severance tax on the extractive industries could produce the revenues that would enable this impoverished region to take major steps toward achieving such rehabilitation.

Because of underassessment and underreporting of mineral values for tax purposes (pp. 102–106) and because of low tax rates (pp. 106–110) property taxation has not proved an effective means of achieving a fair return on the millions of dollars in profit that Kentucky's annual mineral production yields to the absentee corporations who own and lease mineral rights to mining companies within the state. Moreover, the mining companies themselves escape heavy tax liabilities since the state sales tax specifically exempts (a) coal for the manufacture of electricity; (b) energy fuels for manufacturing or processing if the cost reaches more than 3 percent of the total production cost; and (c) machinery for new or expanded industry, into which category most mining machinery falls.

The losses to the state through its failure to impose any effective tax on its mineral resources—primarily coal, but also natural gas, oil, timber, limestone,

clay, sand and gravel, and other mineral products—are enormous. The state's minimal (1.5 percent) oil production tax did yield $221,000 during fiscal year 1968; however, during that same year, the total value of mineral production in Kentucky was $535,705,000. The major part of this dollar value was in coal production, which amounted to $396,883,000.

Originally, according to the U.S. Bureau of Mines, Kentucky's Applachian coal fields contained some 35 billion tons; the Bureau has estimated that as of 1965, 27.8 billion tons of recoverable coal remained. Although coal mining employment has steadily declined as machines have replaced manpower, the future of the industry at this time appears bright. The Federal Power Commission has estimated that the consumption of coal by the electric utility industry alone would soar 250 percent by 1980. Officials of the U.S. Geological Survey and U.S. Bureau of Mines reported in 1968:

> Recent production gains have been based on sound economic factors. The confidence of the industry is reflected in the fact that during 1964 approximately $800 million was spent by the coal industry for improving and building new mining facilities and equipment. . . .
>
> The economic and technical improvements in mining and transporting coal have in turn improved considerably the competitive status of coal as an energy source. Three of the largest electric utilities in Florida are now consuming coal; this state was once the exclusive domain of other fuels. . . . A coal-burning, electric-generating unit will be built in Mississippi, the first to be constructed in that state. Three new long-term contracts were recently signed to supply Appalachian coal to New England electric power plants. Several electric utilities have built or plan to build mine-mouth generating plants in the Appalachian area.

Growing foreign demands for Appalachian coal and new uses of the mineral—its conversion into liquid hydrocarbons, char, and electrical energy, and its use in the manufacture of petroleum and pipeline gas—have greatly inflated the market for coal in recent years and have raised its price to the highest level since 1957—$4.99 per ton as of 1969. During 1969, Kentucky's totally bituminous coal production amounted to 109 million tons—an increase of nine million over the tonnage produced in 1968. Only one other state, West Virginia, exceeded this production level. More recent—and even more encouraging—data were reported by the *Louisville Times* on November 22, 1970. In an article headed "Boom in Coal Doesn't Mean Kentucky Boom," that paper announced in 1970 Kentucky coal production amounted to 109 million tons—an increase of nine million over the selling for "an incredible average of $9 a ton." Commenting on what this meant to Kentucky—and what it might mean with a tax on coal production—the article stated:

> These are the good times that the industry has dreamed about. But good times for whom? Good times for the coal companies, most of them out-of-state firms, and the biggest of them surface miners who turn Kentucky coal into take-home cash and leave us with the mess—the gouged land, the silted creeks, the denuded hills, the acid seepage, the burning gob piles—to live with.
>
> But think what the state could do with the income if coal were taxed at a sensible level. Even a 10-cents-a-ton tax, which would amount to about one percent on sales price, would give the state more than $11 million of help with its school needs. A five percent tax on sales would bring in $51.7 million—enough by itself to cure a lot of the deficiencies the NEA investigators have found in our schools, or to rebuild most of the roads buckled and torn by the coal trucks.
>
> . . . the list of the coal counties of Kentucky contains the names of not all but many of the state's poorest counties, including many that lean most heavily on the rest of the state for help with the public services. It is interesting to consider how these potentially wealthy counties would fare, after all these years of neglect, under a fair coal-land tax policy.

Opponents of a tax on coal production argue that the imposition of such a tax would place the state at a disadvantage in market competition with other coal-producing states. However, their argument is countered by those who point to the confident predictions of the industry itself, outlined above, which seem to indicate that the present boom period in coal production is not to be short-lived.

The passage of a federal severance tax, such as that proposed by Senator Lee Metcalf (Montana) in 1970, would, of course, remove the factor of market competition from any state's consideration of such a tax. The Metcalf bill would

impose a 5 percent tax on the gross income from all domestic mineral properties, but would allow full credit against the federal tax for any state or local severance taxes paid with respect to these properties. The effect of this federal incentive bill would be to induce all mineral-producing states to enact production or severance taxes—unless they preferred to forfeit this lucrative tax source to the federal government. The proceeds of such a tax to Kentucky in 1968 would have amounted to over $26 million. The revenue yield on the state's increased production in 1969 would have been even greater than this amount.

But the federal serverance tax bill has not yet become law. And with every passing month, Kentucky's mineral wealth—and millions of dollars in virtually tax-free profits—flows to out-of-state mineral lessors, whose names comprise a roster of some of the foremost corporations in American industry: U.S. Steel, Bethlehem Steel, Internatinal Harvester, Ford Motors, Republic Steel, National Steel, and New York Mining and Manufacturing are among them.

These companies and their lessees have mined billions of tons of coal and pumped out million of barrels of oil. They have quarried millions of tons of limestone and now are piping away silent rivers of natural gas. The extraction of East Kentucky's wealth staggers the imagination. It continues today—as in the past—under the direction of people who have sympathy for neither the Kentucky land nor its inhabitants.

At one time the people had some considerable part in the extractive process. The mines required large numbers of workers and the mountaineers were paid to bring out the coal. To a remarkable degree modern technology has replaced miners with machines and now two-thirds of the population are irrelevant to the main business of the region—the carting away of wealth.

A 1968 study by Richard M. Kirby of the Appalachian Volunteers found that four-fifths of all the coal in East Kentucky is owned by only 31 individuals and corporations, which include the names listed above and a number of less well known companies. The profits of these corporations are further swollen by favored tax treatment from the federal government. An article in the *Wall Street Journal* publication, *Dun's Review and Modern Industry*, April 1965, spoke enthusiastically of "The Investment Nobody Knows About."

For all their small numbers . . . the coal royalists hold what may well be one of the most lucrative investments in all of America. Certainly, it is not too much to say that its benefits begin right at the tax collector's door. Almost hidden in the federal tax code, a special provision gives capital gains treatment to royalties received from the mining of coal lands that have been held for the usual six months or more.

But like the seam of coal above the ground, that is only the beginning of the wealth. Not only does the coal royalist get capital gains treatment, he also is blessed with the benefits of a cost depletion allowance. . . . If the coal royalist paid $5,000 for his land and it holds 50,000 tons of coal, then the royalty income on an average 25 cents a ton would come to $500 a year.

When it comes to paying taxes on that $500, the coal royalist first takes out a depletion allowance of $200. Then, from the remaining taxable income of $300 he computes his tax at the 25 percent capital gains rate. Final tax: $75, giving him a return after taxes of 85 percent on his total income of $500.

The article reported glowingly the profits actually realized: Virginia Coal & Iron Company of Philadelphia . . . leases huge coal land acreage to operators on a royalty basis. Last year it pulled in a phenomenal $1.5 million in profits on a net income of $1.7 million. Kentucky River Coal Corporation of Lexington . . . which owns about 200,000 acres of coal fields in five Kentucky counties and derives most of its income from royalties . . . in 1963 paid out $649,414 in dividends, nearly half of its $1.4 million in sales.

Meanwhile, the land from which these vast profits are wrested remains a barren place for the East Kentucky residents whose ancestors, generations ago, placed their "marks" on the broad form deeds, through which all rights of ownership to these valuable mineral lands were forfeited, except the right to subsist and pay taxes on a few feet of ravaged surface ground.

The Subcommittee on Strip-Mining of the Young Kentuckians Advisory Committee, appointed by Governor Edward Breathitt in 1967, showed recognition of this tragic injustice, when its members stated in their report to the Governor:

Every Kentuckian who pays his fair share of state and county taxes helps make up the difference when an out-of-state corporation fails to pay its fair share.

We pay in poorer roads, poorer schools, poorer service, and poorer people. We pay in the loss of dignity and self-respect that goes with consistently being played for a sucker.

The sooner the Kentucky legislature wakes up to the necessity of levying a severance tax on coal, timber, and other natural resources, the sooner Kentucky will take its rightful place among the progressive states of the nation.

But the powers of the coal lobby are formidable indeed—in the counties of Kentucky and at Frankfort, as in other coal-producing states—and in Washington, D.C.

Although a tax on the dollar value of coal and other minerals mined would be easily administered and eminently fair, although the need for such a tax is glaringly obvious, such a tax is yet to be adopted. In the words of Richard Kirby, quoted below, the coal royalists continue to have "representation without taxation"—in Kentucky, in other states, and at the federal government level as well:

> . . . when the usual economic factors producing free flow of capital and people do not operate, when the region is both isolated and depressed, the citizens of the region cannot afford to allow anyone to profit from its resources who does not contribute to their orderly development. Mineral owners do not make such a contribution. They perform no labor, provide no service; their profits come simply from the fact of ownership. The least the region can afford is to levy a systematic tax on their wealth.
>
> The inner logic of a more adequate mineral tax, be it severance or property, lies in the proposition that the region should create and exercise control over the use of its own resources.

Enactment of More Stringent Standards for Enforcement of Equitable Property Assessment

Responding to this part of the KEA Complaint, Governor Nunn stated:

> A 1965 ruling of the Kentucky Court of Appeals required that, effective January 1, 1966, assessments of real property should be at 100 percent of fair cash value. For the first time in Kentucky's history, the people and tax administrators were provided a single standard for property valuation. The Kentucky Department of Revenue has, in the years since that decision, used every reasonable means at its disposal to insure compliance with the court order.

The Kentucky Constitution requires all real property to be assessed for tax purposes at 100 percent of fair market value. However, for a number of years prior to the Court of Appeals decision (*Russman v. Luckett*, Kentucky, S.W. 2d 694–95), assessments had failed to keep pace with rising property values. The average assessment level among Kentucky's taxing districts had dropped from 70 percent in 1940 to 26 percent in 1965. The range of assessments among Kentucky districts in 1965 was from 12.5 to 33 percent.

By 1966, Kentucky's court-ordered reassessment program had brought assessment ratios to an average of 84 percent of full-market value. According to the 1967 U.S. Census of Governments, Kentucky had the highest statewide assessment-sales ratio in the nation in 1966. Since that time, annual reappraisals (ordered by the Court in *Russman*) have maintained a high assessment ratio—at least in comparison with the ratios of other states. Statewide averages published for 1968 showed that farm and rural nonfarm properties in Kentucky were assessed at 80.4 percent of sale value; the assessment ratio for residential property was 92.6 percent, and for commercial property, 94.8 percent.

Despite these relatively high assessment levels in Kentucky, the unutilized revenue potential from property taxation in Kentucky (see Table 11) amounted to $151.3 million in 1968, when compared with the average property tax collections of the 50 states. This was more than double the amount of unutilized property tax revenue potential in 1961—before the *Russman* decision. The low rate structure, to be discussed in the next section, is a major reason for the minimal yield of property taxes in Kentucky; however, testimony received by this Committee indicated that a part of the problem can be accounted for by weak and uneven tax assessment and collection practices that still prevail in some sections of the state.

The NEA Special Committee did not make a detailed investigation of assessment practices throughout Kentucky. The Commonwealth has a good record of assessment administration in comparison with many other states; however, the

conflicts between state assessment standards and local assessing practices are known to be a serious problem in all the states.

Very little investigation was needed to learn that Kentucky retains several traditions that are contrary to standards of sound assessment practice. These were outlined in a 1967 Research Report of the Kentucky Legislative Research Commission.

The Research Commission stated that the county assessment jurisdictions in the Commonwealth are too small to effectively utilize or support a staff of professionally qualified personnel. Only 13 Kentucky counties have a population of 40,000 or more. Also, Kentucky cities of all sizes constitute assessment districts for municipal purposes, thus producing further fragmentation of assessment capability.

County property valuation administrators (tax assessors) are popularly elected and commonly reelected for many terms, rather than being appointed on the basis of established standards of professional competence. The only qualifications for this office, other than citizenship and county residence requirements, are that the candidate be at least 24 years of age, have an eighth-grade education, and be able to pass a state-administered examination. The Kentucky Commissioner of Revenue stated, in a written communication to the KEA in connection with this investigation, that these examinations are "of such comprehensiveness that less than half of those participating are able to pass. In the 1969 examinations only 171 of 421 taking them secured passing grades." Despite this test requirement, neither the salaries offered to tax assessors nor their status as elected officials would encourage the development of professional expertise and the qualities of independent judgment essential for this position. The minimum amount that a county property valuation administrator can earn is $4,800 per annum; the maximum salary is $12,500, except in counties having a property assessment of more than $200 million, excluding the value of livestock and farm machinery. The minimal salary levels offered by many counties are not likely to attract the most experienced and professionally competent personnel. Furthermore, as the LRC Report stated in 1967—

> Because they are elected, county tax commissioners are seen to be especially vulnerable to local political pressure. The fact that they know how to assess objectively may not lead them to do so, particularly if they foresee defeat at the polls as the likely result. When visiting local tax offices, the staff found that uneasiness about full value assessment was not uncommon. As one tax commissioner put it, "an assessor who does his job right won't be around after four years!"

The Kentucky State Department of Revenue stated in its 1968–69 Annual Report:

> . . . perhaps the most effective program in the property assessment area offered by the department is that of property identification mapping. This program, which can be provided to the counties only upon request of their fiscal courts insures a solid workable base for equity in property assessments.
>
> When a fiscal court requests a mapping project, a contract is signed with the Commonwealth. The contract provides that detailed maps shall be prepared identifying each and every parcel of real property within the county. The county must furnish working space and utilities, but all other costs, including personnel, are borne by the state.

The mapping program—although it is recognized as an essential tool to sound assessment procedures—is not mandatory in Kentucky. As of February 1971, according to information from the Kentucky Department of Revenue, a total of 46 counties had availed themselves of the real property identification mapping service offered by the state. In addition, two counties have carried out their own mapping program; and approximately 20 counties are maintaining the maps prepared as part of the state's reappraisal program conducted during the 1950's Thus, only slightly more than one-half of the counties in Kentucky are making use of some kind of property identification mapping for assessment purposes.

The problem of underassessment and underreporting of taxable property wealth is particularly severe in the mineral-producing areas because of the difficulties in setting an accurate valuation of mineral properties underground. Richard Kirby in *Kentucky Coal: Owners, Taxes, Profits*, referred to earlier, reported his observations of assessing practices in Eastern Kentucky counties:

The method used in valuing mineral deposits in Eastern Kentucky is admirably simple: upon request, coal companies declare what they own and what it is

worth. . . . Nowhere else is a person's statement so eagerly sought and so uncritically accepted as the sole basis for establishing his legal liability.

Unfortunately, at present, there is little else a tax commissioner can do, however good his intentions. He has few or no resources with which to try a systematic evaluation of mineral properties in his jurisdiction. Indeed in most counties he lacks the power or resources even to find out what tracts there are and what they contain.

From various sources, the NEA Special Committee received reports that mineral properties in Kentucky, despite the mandate of the *Russman* decision, are both underassessed and underreported, much of this underground wealth never finding its way to the tax rolls at all. The extent of this problem in one Eastern Kentucky county was discussed in the 1967 report of a factfinding team, appointed by the local Board of Education to determine the adequacy of the school tax structure "to finance the present level of services and permit additional salary for the teachers. . . ."

The Pike County School System ended the Fiscal Year June 30, 1967, with an operating deficit of $112,526.42. In short the revenues for the previous Fiscal Year were not adequate to cover the expenses of operating the school system. This was true even without the added expense of raises for teachers and bus drivers already given in the current school year. . . .

We believe that the two main problems currently adversely affecting the school revenue in Pike County are lack of adequate property assessments and lack of effective collection procedures. . . . Responsible estimates place the amount of unlisted or undervalued property in Pike County at between 40% and 60% of the total wealth of the county. Many reasons have been advanced to explain the failure of adequate assessment. The Tax Commissioner's office has been short of trained personnel and has had inadequate funds to properly assess a county the size of Pike. These problems are of long standing and have held true during the administration of several tax commissioners. . . . In our judgment the overriding problem in the Tax Commissioner's office has been the feeling of each incumbent to operate the office in much the same manner as it was operated by their predecessors. The rising of property assessments is not generally politically popular and a Tax Commissioner's position is not an enviable one. If we are to have an efficient school system and an efficient County government, the public must come to an awareness of the absolute necessity for the equalization of property values in Pike County. The system of property tax collections in Pike County is, and always has been unbelievably archaic and inefficient. We are not criticizing the present office-holders, who in most instances, seem to have made improvement in the conduct of their respective offices. The system itself has simply failed in its assigned task of collecting property taxes. . . .

We recommend that the General Assembly of Kentucky take steps to improve the laws relating to assessment and collection of property taxes. We would recommend especially that the General Assembly remove the present 3-year limitation on instituting suit against real estate for delinquent property taxes and that the Statute of Limitations on delinquent property taxes be extended to 15 years.

As noted above, the NEA Special Committee did not undertake a comprehensive study of the problems of underassessment and underreporting of property values in Kentucky; and the matter of tax collection—or, rather, the failure to collect taxes in many counties—was not a part of the Committee's charge. The foregoing data, however, constitute persuasive evidence that millions of dollars in taxes are being forfeited every year because of the state's failure to enforce a fair, uniform, and effective system of property assessment and collection in its localities.

2. The Governor did not recommend and the Legislature did not repeal the inequitable and restrictive local property tax ceilings enacted in 1965, thus severely limiting the ability of school boards to increase or equalize local school revenues.

Before 1966, when the Court of Appeals' Fair Value ruling went into effect, public school districts in Kentucky were permitted to levy a maximum general fund tax rate of $1.50 per $100 of assessed valuation of taxable property. The $1.50 maximum could not be exceeded without a majority vote of the people, except in the few districts where a higher rate was required for full participation in the State's Minimum Foundation Program. The minimum tax rate required for participation in the Foundation Program was $1.10. At the time of the

Russman decision, declining assessment ratios and mounting education needs had forced all but seven Kentucky districts to tax at the maximum $1.50 rate. Twenty districts had voted additional levies beyond the maximum. Disparities in assessment ratios among Kentucky districts had greatly intensified inequities in tax burden and educational opportunity throughout the state.

With implementation of the Fair Value ruling, real property valuations in Kentucky more than tripled—going from $3.5 billion in 1965 to $12.7 billion in 1966. Even before the court-ordered reappraisals were undertaken, however, the public outcry against increased taxes caused Governor Breathitt to call a special legislative session for the purpose of providing tax relief as districts moved from fractional to full value assessments. The Kentucky General Assembly, convening in 1965, adopted House Bill 1, which required local taxing districts to "roll back" their nonvoted tax rates to a level that would produce no more revenues after 100 percent valuation than before. Further 1965 legislation provided that after a public hearing, any taxing jurisdiction could set its tax rate at a level that would increase revenues up to 10 percent over the 1965 general revenue level during years 1966–67 and 1967–68.

In 1966, the Kentucky legislature passed a law allowing a school board or boards that represent at least 90 percent of a county's residents to make use of one of three non-property taxes without a public vote, after publication of notice of such intent and after a public hearing. These taxes are—

A 3 percent tax on utility gross receipts (used by 24 districts as of March 1970).

A 0.5 percent occupational tax (used by four districts).

An excise tax on state income tax liability at a rate not to exceed 20 percent (not in use).

As noted earlier, repeal of the Tax Rollback Law was urged by KEA as one of its legislative priorities during the 1970 session. Although the Governor and the General Assembly did not respond favorably to KEA's request, the legislature did relax the rollback restrictions in the following ways:

1. By allowing the seven school districts that were not at the $1.50 state maximum rate for school districts in 1965, when the rollback restriction was passed, to levy a rate as if they had been at the maximum.
2. Allowing assessment growth on existing property to be counted for school tax purposes, effective January 1971. The 1965 Rollback Law had permitted no nonvoted revenue increase (aside from the two 10 percent provisions).

[Appalachian Lookout, October 1969]

KENTUCKY COAL: OWNERS, TAXES, PROFITS—A STUDY IN REPRESENTATION WITHOUT TAXATION

(By Richard Kirby [1])

The data on mineral assessments which forms the meat of this report were collected in the summer of 1968 from the tax records of the eleven major coal producing counties in Eastern Kentucky. It was felt that this would be the best way of getting a coherent picture of both ownership and taxation of East Kentucky's coal. The only other sources, hearsay and title searches, are either too spotty or too tedious to be useful. Still, the source of the information requires some comments reliability. Counties vary greatly in their approach to assessing minerals. Some counties make a conscientious effort to separate surface from minerals, even where the same person owns both. Others make no attempt to separate the two, or even to give acreage figures in many cases. Nevertheless, the results of this 1968 study are probably the best figures presently available on mineral ownership in this region.

MINERAL OWNERS: WHO THEY ARE, AND HOW THEY GREW

When the vavrious county records are cross-referenced and the totals added, the result is the "biggest holders" list on the next page. It contains every mineral owner in the eleven counties whose total stated assessment exceeds a quar-

[1] Richard Kirby graduated in June with degrees from Yale's Schools of Law and Architecture. He is presently working with the Mountain Legal Rights Association in Prestonsburg, Ky.

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ter-million dollars. From the proportion of the assessments on the list to the total, it appears that the thirty-one people and corporations listed there own between them about four-fifths of East Kentucky's coal.

EASTERN KENTUCKY MINERAL OWNERSHIP

Assessed value	Owner	Counties
1. $5,305,813	Bethlehem Mines	Letcher, Pike, Knott, Floyd.
2. $5,152,690	Kentland Coal & Coke	Pike.
3. $3,567,951	Kentucky River Coal	Perry, Letcher, Leslie, Knott, Harlan, Breathitt.
4. $3,121,652	Ashland Oil	Pike, Knott, Floyd, Clay, Breathitt.
5. $2,575,319	Fordson Coal	Pike, Leslie, Harlan, Clay, Letcher, Perry.
6. $1,961,810	Elkhorn Coal	Floyd, Letcher, Knott, Pike.
7. $1,789,749	Virginia Iron, Coal & Coke	Pike, Perry, Leslie, Floyd.
8. $1,572,441	Southeastern Gas	Floyd, Knott, Pike.
9. $1,546,500	International Harvester	Harlan.
10. $1,542,420	Big Sandy	Pike.
11. $1,438,550	United States Steel	Harlan, Letcher.
12. $1,253,888	National Mines	Knott, Floyd.
13. $925,980	J. M. Huber	Knox, Bell, Leslie.
14. $788,422	Island Creek	Floyd, Knott, Pike.
15. $711,840	Western Pocahontas	Pike, Knott, Floyd.
16. $681,118	Kycoga Land	Leslie, Letcher, Knott, Perry, Breathitt.
17. $639,121	W. W. Lindsay	Pike, Knott, Letcher.
18. $599,790	Peabody Coal	Harlan, Leslie.
19. $592,858	Penn-Virginia	Letcher, Harlan, Knott.
20. $538,000	C. A. Lee	Leslie, Knox.
21. $511,350	Bringardner Lumber	Leslie, Clay, Harlan.
22. $473,950	N. Y. Mining & Manufacturing	Harlan, Knott.
23. $451,400	Blackwoods Land	Letcher, Harlan.
24. $439,032	Columbian Fuel	Floyd, Knott, Pike, Perry, Letcher.
25. $368,133	Mary Helen Coal	Harlan.
26. $356,490	Asher Coal Mining	Bell, Leslie, Perry.
27. $325,000	Harkins Mineral	Floyd, Knott.
28. $317,847	Lawrence Tierney Land	Pike.
29. $284,380	Pocahontas Land	Pike, Floyd.
30. $280,305	Republic Steel	Pike.
31. $259,000	Morely H. Ringer	Knott.

This, without more, should serve to establish that the process which began with the widespread use of broad form deeds to sever minerals from surface ownership has ended in extreme concentration of mineral ownership and its systematic exploitation by outsiders.

While absentee ownership is the hallmark of coal today, it all began with local people—at least they didn't become absentee until after making their fortunes. The first and biggest operator, John C. Mayo, came from Paintsville and a very old Kentucky family. Mayo seems to have realized the value of the coal some years ahead of everyone else and bought as much of it as he could. For this purpose he invented the broad form deed and the "bond deed." This latter was an ingenious device whereby the purchaser of the coal (Mayo) took title at once, pledging to pay the purchase price in gold on presentation by the seller of a survey and abstract of title. By an odd coincidence, every surveyor and lawyer in the area was on Mayo's payroll and couldn't be bothered—until Mayo had mined enough coal to pay off the deeds. Thus Mayo, who was always short of cash, was able to acquire many of the huge tracts Kentucky River Coal Company now owns.

The present ownership of Kentucky River Coal is a history of Mayo's subsequent trials. The Clay family owns a good deal (Catesby Clay, of Runnymede Farm, Paris, is now president) because Mayo needed a good many private bills passed to clear up title ambiguities; the Clays dominated the legislature and were able to deliver. (These title confusions were and are incredible, going back to overlapping and inconsistent eighteenth-century patents, and based in part on an early and thoroughly incompetent survey by George Washington.) A good deal of Kentucky River Coal is owned by the Westerfields, a Virginia family who were then the prime railroad builders in the mountains; they were given stock in the company in return for bringing railroad spurs into areas which Mayo wished to open to mining. The same is true for the C & O Railroad, which also owns part of Kentucky River Coal.

Much the same could be said for the other owners of mineral rights. During the early years of the coal industry a large number of companies were formed, which merged, split, and eventually went under in the depression, so that a

given tract of minerals may have had a dozen owners since it was severed. Title questions are invariably substantial.

These title difficulties explain why there must always be an element of guesswork in finding out what minerals are whose. Kentucky River Coal for example, has only a general idea of what it owns in a given area; a typical lease will give the miner the right to extract all of whatever the company owns in the land covered, leaving the miner with the responsibility of finding out actual ownership. It often turns out that a block in the midst of a Kentucky River Coal tract is owned elsewhere, often by persons unknown—in which case there is no choice but to mine around it. Thus while mineral owning companies do occasional core drillings and surveys, the mining company has the burden of making extensive title searches; in Pikeville there are thirty lawyers who do nothing else. Even big operators know only who owns the coal right in front of their drills.

In specific reference to the list of biggest holders, Tom Gish says that the only reason Bethlehem Mines is first is because it wants to be: the company has a long-term commitment to the Jenkins area, and wants to support the Jenkins school district. Without such support, it would be hard to persuade managerial personnel to stay in an area with such terrible schools. It sums up the whole situation to note that the amount of money involved, while significant in Jenkins, means almost nothing to the company. Similarly, U.S. Steel makes voluntary payments to an independent school district in the Lynch area of Harland county.

. . . AND HOW THEY STAY THAT WAY

Concentrated mineral ownership not only exists, it is highly profitable. This is so for two reasons: low overhead and significant tax advantages.

Mineral owning companies do nothing in particular but own minerals. We have seen that virtually all phases of exploitation are carried out by the miners; companies like Penn-Virginia which own other companies do so out of boredom, and a desire to keep their money in useful pursuits. As a member of the Appalachian Group to Save the Land and People put it, "Anyone can run a mineral company. All they do is cash checks." James Millstone found that in 1965 Kentucky River Coal, with earnings of $11.17 per share, paid out $8.70 in dividends. The company has 17 employees, headquartered in Lexington. A total of 258 shareholders own its approximately 100,000 shares of stock. Other companies have a less spectacular earnings ratio because they retain more earnings for investment purposes.

But the real fat in coal royalties comes in its tax treatment. We have seen that the counties themselves have cooperated magnificently in sparing the mineral owners from burdensome levies, and the state itself has done equally well—there is a negligible corporation tax and a severance tax of 1½% of market value laid on oil and gas.

Far more significant, however, are two features of the Federal tax treatment: cost depletion and capital gains. Cost depletion is similar in effect and rationale to the percentage depletion allowed in recovering oil and other minerals, except that instead of a percentage of income, the cost depletion allowance is based on the original cost of the property to its owner. Thus if one-third of the minerals in an acre are mined in a year, the owner can deduct one-third of the original cost from his gross income. The effect of this is negligible if the acre is still held by the company that paid fifty cents for it in 1900; but many properties have changed hands often since then. In fact the cost depletion allowance seems to be an incentive to sell, even if only to one's self via a subsidiary. An acre bought for 50¢ could be sold in the year of mining for perhaps $5,000, increasing the cost depletion allowance by ten thousand times.

Whereas cost depletion makes some sense (for minerals, unlike real property in general, depreciate to worthlessness as they are used), the treatment of royalty income from coal as capital gains is out-and-out favoritism. In effect it means that owners of such property pay a maximum rate of 25% on income. As an admiring article, "The Investment Nobody Knows," in *Dun's Review and Modern Industry* for April 1965 put it, a "royalist" who bought land with 50,000 tons of coal for $5,000 and leased it out for a 2000-ton mining year would get $500 at 25¢ a ton. He has exhausted 4% of his coal, so he can deduct 4% of the purchase price, or $200. The remaining $300 pays capital gains at 25%, or $75, for an effective tax rate of 15%.

If he is "one of small band of financiers who are reaping golden profits from the investment nobody knows about," this should make him happy indeed. *Dun's* talked to one of the golden band. "Says he, grinning: 'The rich get richer, etcetera.'"

MINERAL TAXATION IN PRACTICE

The official responsible for the raising of revenue for the operation of Kentucky counties is the county tax commissioner. Officially a divisional officer of the state Department of Revenue, he is in fact a county officer, an integral part of the courthouse power structure and a part of the coalition which includes the county judge and the fiscal court, which decides how much money the county will raise and how it will be spent. Before taking office he must pass an examination given by the state Department of Revenue, which makes him the only county official (apart from the county and commonwealth attorneys, who must be lawyers) to have to demonstrate any competence at all. Like the county judge, he is required to have at least an eighth-grade education.

The law which he administers requires that all property be assessed at one hundred percent of fair cash value. Like many requirements, this was commonly ignored and each county assessed at a level of its own choosing until 1965. In that year the Court of Appeals declared that the law meant what it said and that officials must follow it. The resulting upheaval has made analysis of tax policy considerably easier.

It hardly needs explaining that coal is the major resource of most Eastern Kentucky counties, and as such could be the principal source of revenue for the county government. This is not the case. Although taxes paid are not public record, it is clear from aggregate figures that mineral assessments play a relatively small part in raising revenue. In Letcher County, for example, minerals are assessed at five million dollars out of a total assessment of twenty-four million. In a practical sense it is ridiculous that a county which, like Letcher, produced more than $25 million worth of coal last year cannot raise the money to educate miners' children without help from the rest of the state. In a broader sense, it is highly important that an area exercise basic control over its resources, else it is no better than a colony of the outside world.

The method used in valuing mineral deposits in Eastern Kentucky is admirably simple: upon request, coal companies declare what they own and what it is worth. The tax commissioner glows with pride and astonishment at the self-sacrificing honesty of American industry. Nowhere else is a person's statement so eagerly sought and so uncritically accepted as the sole basis for establishing his legal liability.

Unfortunately, at present there is little else a tax commissioner, however good his intentions, can do. He has few or no resources with which to try a systematic evaluation of mineral properties in his jurisdiction. Indeed in most cases he lacks the power or resources even to find out what tracts there are and what they contain.

Letcher County will serve as a good example. It is something of a mdoel among Eastern Kentucky counties in this respect, because in the 1950's an aerial survey was made and the photographs correlated with tax rolls to make sure each tract in the county was covered. Yet even here there is no systematic knowledge of mineral ownership. Companies report each year that they own so much in the aggregate, and that it is worth some specified amount. But where in particular this acreage is located is not disclosed, nor has the county ever attempted to force such disclosure. Although each tract has its file card complete with aerial coordinates, boundaries, description, and owner's name, for most such tracts the mineral ownership is listed as "unknown." Undoubtedly most of these "unknowns" are covered in the acreage totals given by the companies, but there is no way to pin down a particular tract short of a title search. Even then, whoever turns out to be the owner will claim that the tract is included in his aggregate figure. Since the mineral-owning companies themselves often have only a vague idea of what they own, the only way to get accurate, organized data would be a county-wide title search.

If the county cannot find out who owns a particular tract of minerals, it can hardly be expected to learn what coal seams may be present, what the mineral owner proposes to do with the coal and when, what the cost of mining it would be, what the selling price of the coal would be, whether the mineral owner is in a good bargaining position, and so on to make a technically correct assessment of value. And of course the county does no such thing. In general, assessments are

based on the owners' own statements, and county tax commissioners have no choice but to accept them at face value. He can compare a return to others or to those filed in previous years, meaning that while no one taxpayer can cheat the county by himself, as a class they can get away with a good deal. It would seem to be a collective conscience, rather than the tax commissioner or any objective standard, which provides the limiting factor to tax avoidance.

And if Letcher County, whose tax commissioner is as conscientious as any, is haphazard in its assessments, most of the other mountain counties make no pretence at all to accuracy. Besides the obvious fact that the office of tax commissioner is a prime target for political influence, few if any of these men realize the importance of taxation policy. Property taxes are part of the cost of living and a good tax commissioner is one who can be fair and equitable in spreading this burden as justly as possible—among the ordinary people, who simply do not recognize the extent of the wealth going untaxed beneath their feet. Probably the best indication of the state of mind in the tax offices comes from Clay County, where the tax commissioner described the coal taxation situation as follows: "People just paid what they thought they should. Still do, mostly."

It should be noted that even the apparent certainty of sale prices are not much help in valuing minerals. Such property changes hands only infrequently, and often the sales are made after the land in question has been mined. Moreover, not until April 1968 were transfers of real property required to be recorded with the tax commissioner of the county in which the property lay. One must rely on hearsay for information on what sales had taken place. Consensus among tax commissioners seems to be that even under the new law they will not receive accurate information as to sale prices.

Coal pervades every sector of Eastern Kentucky's political life, and it is not surprising that tax officials are no exception. In addition to the influence they have with the tax commissioners, the producers and mineral owners have another safeguard against irksome taxes: the county's Board of Tax Supervisors, which hears appeals from the tax commissioner's assessments. The Board is appointed by the county judge, and Harry Caudill tells of the traditional practice of appointing an official of the county's biggest coal company as chairman. James Millstone, in his articles on Kentucky coal taxes for the St. Louis *Post-Dispatch* tells of the yearly ballet between the tax commissioner of Leslie County and Fordson Coal Company, a subsidiary of Ford Motors. The result is what would be expected in such a contest: Ford always wins.

Assessment of minerals is not completely without method. Some ten or more years ago the technique of "zoning maps" was introduced. The county is divided into zones according to its different coal seams, and each zone receives an average per acre valuation. After the Russman case in 1965, the Department of Revenue produced such maps for any county which wanted its help in moving to full-value assessments. The maps are now used in most counties.

The maps, prepared by the state "in cooperation with coal owners, operators, and county officials," are highway maps with coal seams marked, and with per acre valuations indicated. For example, the northern end of Perry County is shown to hold Hazard #4 coal, which is said to be worth $105 an acre.

These maps are probably a good technique, in the abstract. If they are accurate they can be used by anyone to set a fair valuation. The question is, what information do they contain? They could hardly have been prepared without the cooperation of owners and miners, apart from a Minnesota style program of extensive surveying and core drilling by the state. The basic premise, that owners and operators are willing to place a substantial tax on themselves, is open to question. The maps, for one thing, do not contain any indication of the numerous instances in which the land is underlain by more than one seam, as the valuation purports to be only for the principal seam at any one spot. In addition, the degree of refinement seems to be rather coarse; the maps distinguish only among different seams, with no account taken of the variations within a single seam. No coal operator in his right mind would open a mine on such general information. And enough has been said to suggest that the valuations indicated on the maps are likely to be on the low side.

The counties have shown some originality in dealing with the maps. It was intended by the Department of Revenue that land be carried at its zone valuation until the year of mining. In that year the valuation is to be increased ten times, and thereafter the assessment will be nominal or nonexistent. This practice is followed in many places. In Perry County, for example, valuations run from $5 to $105 per acre. Letcher County has tried to move away from the

rigidity of the maps and get a little closer to the actual value of the mineral. Its map, which originally ranged from $25 to $200, has valuations up to $592 in some areas. In Knott County, on the other hand, where valuations range from $5 to $60, the tax commissioner goes by the map even in the year of mining; afterwards the land is dropped from the records.

A MODEST CONCLUSION

The difficulties is setting a fair valuation of mineral properties are enormous. This presents a strong argument for a severance tax as the most fair and rational way to tax minerals. The major point in its favor is that the tax is virtually self-administering, given detailed production figures (which are now kept by the state Department of Mines and Minerals, by the U.S. Bureau of Mines, and by the coal-hauling railroads). Every ton of coal mined would result in a tax liability of, say, ten cents to the state or county, payable at the time of mining. Its one drawback is that, being imposed on gross revenue, it would be treated as a cost of production and hence tend to delay mining. A significant property tax would have the opposite incentive, to mine sooner than is optimum.

The case of a severance tax does not rest only on the grounds of simplicity of administration. There is also an equity argument that has two parts. First, the public should be sure to get an adequate return for the loss of its irreplaceable natural resources. Second, when the usual economic factors producing free flow of capital and people do not operate, when the region is both isolated and depressed, the citizens of the region cannot afford to allow anyone to profit from its resources who does not contribute to their orderly development. Mineral owners do not make such a contribution. They perform no labor, provide no service; their profits come simply from the fact of ownership. The least the region can afford is to levy a systematic tax on their wealth.

The inner logic of a more adequate mineral tax, be it severance or property, lies in the proposition that the region should create and exercise control over the use of its own resources.

[From St. Louis Post-Dispatch, Nov. 18, 1967]

COAL RECOVERY MAKES PROFITS FOR OWNERS, NOT REGION

LOCAL TAXES PAID ARE LOW—STARTLING CONTRAST BETWEEN WEALTH OF THE LAND AND POVERTY OF THE PEOPLE IN APPALACHIAN COUNTIES

(By James C. Millstone, a staff correspondent of the Post-Dispatch)

"Coal has always cursed the land in which it lies. When men begin to wrest it from the earth it leaves a legacy of foul streams, hideous slag heaps and polluted air. It peoples this transformed land with blind and crippled men and with widows and orphans. It is an extractive industry which takes all away and restores nothing. It mars but never beautifies. It corrupts but never purifies."—from "Night Comes to the Cumberlands" by Harry M. Caudill.

HAZARD, KY., Nov. 18.—King coal is back on the throne. Across the coal-rich mountains of eastern Kentucky, the black diamonds are pouring from the earth at a staggering rate. The narrow, snaking highways are clogged with trucks piled high with coal, and with empties returning for another load. The hills rattle with the grinding of great earth-moving machines stripping away the land to rip out the riches beneath the surface.

Ever-increasing numbers of mammoth railroad gondolas are hauling away eastern Kentucky's wealth faster than ever before, more than 1,000,000 tons of coal a week worth more than $4,000,000, most of it headed from the remote mountain fastness to the teeming manufacturing centers of the nation.

COAL IS THE single important industry in the impoverished mountains, yet a reporter searches in vain for signs that the smashing new coal comeback is denting the poverty that has gripped, crushed and depopulated this most backward corner of Appalachia.

Unemployment still runs far above the national average, for the mining industry now works largely with machines, not man. Even as coal productivity has soared by 203 percent in the past 20 years, employment has fallen 65 percent. There now are only 25,000 fulltime mining jobs in all of Kentucky.

The standard scene in Harlan, Hazard, Whitesburg and Pikeville the first week of every month is the food stamp lineup—men, women and children stretching for blocks before the grocerystores.

The dregs of earlier boom-and-bust days in the coal industry still contaminate the once magnificent countryside. In the hidden hollows of Pike, Floyd, Letcher, Perry, Leslie, Knott, Bell and Harlan counties—the heart of the eastern Kentucky coalfield—the joyless coal camps still stand, gray and rotting, occupied by gray and rotting people. The gnarled old women still sit rocking on the tilted porches. The rusted, wheelless automobile hulks still litter the hillsides, backyards and creekbanks. Nearly anywhere in eastern Kentucky where a road may be found, it will lead to a ghost town where the ghosts still live.

THE COAL BOOM has accentuated the startling contrast between the wealth of this land and the poverty of the people. For the fact of the matter is that some of the poorest, saddest, most despairing people in the nation live on some of the richest land and have as their next-door neighbors some of the most profitable corporations in America.

It is a contrast that has passed largely unnoticed by most Kentuckians but has haunted the mind of Harry M. Caudill, a lanky Whitesburg attorney whose ancestors have lived in these hills since 1792. From his long study of the forces that shaped the people and the land, Caudill wrote the sensitive "Night Comes to the Cumberlands," a definitive history of the region that played a part in paving the way for today's antipoverty program.

Stumping Appalachia tirelessly, Caudill has used any forum that might come to him to preach land, tax and governmental reform, urging steps to help Kentucky's mountaineers put to beneficial use the riches under their feet.

"For more than 50 years," Caudill says, "mountaineers have sat supinely by and allowed their land and kinsmen and institutions to be callously exploited and manipulated by people who have neither affection nor respect for Appalachia—whose only concern is to plunder it for the money its resources will bring in the marketplace.

"KENTUCKY'S wealth is making a few men rich in faraway places. The extraction of east Kentucky's wealth staggers the imagination. It continues today, as it has in the past."

Caudill believes that while the poverty of eastern Kentucky has been well documented in recent years, little attention has been paid to the other side of the coin.

"The hidden face of Appalachia must be brought into view and seen in proper focus," he says. "It is wondrously prosperous, for the coal depression has long since passed into history.

"It is studded with the names of great corporations, United States Steel, Bethlehem Steel, Inland Steel, Republic Steel, International Harvester, Ford Motor Co. and scores of others. These are gigantic entities attracted by the gigantic promise of one of the richest resource regions on this planet.

"Then there are the less famous corporations, the obscure firms that own immense boundaries of minerals and lease them to operating companies for royalties. These companies have shaped the density of Appalachia now for 75 years. They have set the policies followed in its courthouses and statehouses. Governors and legislators have abjectly cowered before them, enacting laws that exempted them almost entirely from any effective taxation."

IF THE COAL surge has brought no comfort to those who stand in the food lines and rock on the creaking porches, it must be a source of deep satisfaction in far-off board rooms in Philadelphia, New York, Pittsburgh, Detroit, New York and Baltimore. These figures tell why:

Production of bituminous coal has risen spectacularly in Kentucky, from a low point of 62,800,000 tons in 1959 to a record high of 93,100,000 tons last year, a one-third increase. Production last year went up 8 percent over 1965, and the state's coal output was valued at $345,000,000. The surge was most noticeable in eastern Kentucky which produced nearly 51,000,000 tons in 1966, close to 10 percent above the 1965 totals.

Among the states, Kentucky ranks second to West Virginia in total coal production, turning out 17 percent of the nation's coal last year, and its experience mirrors the national trend. American coal production has soared from a low mark of 403,000,000 tons five years ago to a record 533,000,000 tons last year.

Consumption of coal has risen steadily since 1961 after a long slump that began in 1920. Coal is slowly reclaiming from oil and gas its share of the nation's energy market and has gained on its competitors every years since 1963.

The future for coal could hardly be brighter. The Federal Power Commission estimates that the needs of the electric utility industry, which now consumes half the coal produced in the nation, will increase two-and-one-half times by 1980. Exciting new uses for coal appear to be within reach. There is talk of a process for converting coal to gasoline, of utilizing coal in desalting sea water.

The industry in Kentucky has even more reason for optimism. Much of the 33 billion tons still buried in the splendid mountains and along the winding streams of eastern Kentucky is the finest grade in America, low in sulfur content and thus increasingly desirable as a protection against air pollution.

Confirmation of the bountiful times in the coal business can be found in the annual and financial reports of three of the oldest coal companies operating in Kentucky. All three are land-owning companies which mine no coal but own mineral rights over vast expanses of land which they lease to coal operators. As a rule, they receive 25 cents for each ton of coal removed from their property.

The Penn Virginia Corp. of Philadelphia, which until last April did business under the name of the Virginia Coal and Iron Co., started buying up coal lands in eastern Kentucky and elsewhere in 1882, paying as little as 50 cents an acre for mineral rights to land fairly crammed with black gold. It now owns 105,000 acres in eastern Kentucky, Virginia and West Virginia, and its properties produced 7,974,785 tons of coal last year.

Two years ago, a business publication called Dun's Review and Modern Industry referred to coal-leasing as "one of the most lucrative invesements in America" and cited Virginia Coal and Iron as "what may well be the most profitable company in all of American industry." The assessment of the company was based on the fact that its net earnings came to 61 percent of its revenues in 1964.

If Penn Virginiia was, indeed, the most profitable company in the nation in 1964, it is more so now because it is making more money then ever. The 1966 annual report, under the heading, "another record year," told stockholders:

"Once again, improved demand for bituminous coal, reflected in higher royalty income, was the principal area of growth. A continuing trend in this direction, multiplied by higher per-ton royalty rates, will create an even greater gain in net earnings for 1967 . . . prices for low sulfur fuel are on the way up and will be reflected in your company's earnings."

The company reported revenues of $2,700,000 and $2,900,000 in 1965 and 1966, respectively, and net earnings of $1,800,000 and $1,900,000. The consistent 60 percent-plus margin would make the mightiest corporations envious. General Motors, for example, nets about 10 percent on its sales, and United States Steel Corp. had a 5.6 percent return last year.

Reflecting Penn Virginia's healthy profits, the company distributed to its stockholders dividends totaling $1,100,000 in 1965 and $1,200,000 last year. By contrast, local governments in the land that produced much of this wealth—Harlan and Letcher counties in Kentucky and five Virginia and West Virginia counties—received a combined total of $75,000 in 1965 and $65,000 last year in property taxes from Penn Virginia.

The company's income taxes were nearly as negligible because of massive tax breaks for coal royalties. Thanks to depletion allowances and capital gains benefits, Penn Virginia paid only $163,584 in federal income taxes in 1965 and $317,000 last year. The result of low taxes and few other expenses provided every Penn Virginia stockholder with net earnings of $4.03 for every share of stock last year.

Penn Virginia has been increasing its coal-based profits in recent years by wheeling and dealing astutely, having bought heavily into the Southern Railway Co., Westmoreland Coal Co., a coking operation in Brazil and a Canadian mining firm.

Equally astonishing profits have accrued to the Kentucky River Coal Corp., Inc., founded in Virginia in 1915 and owner of 190,000 acres of coal lands in eastern Kentucky, principally in Perry, Knott, Letcher and Leslie counties.

In 1964, the 258 stockholders of Kentucky River received $8.76 in earnings for each share of stock, and in 1965 earnings per share jumped to $11.17.

With nearly all its income coming from coal royalties, Kentucky River took in $1,500,000 in 1964 and $1,870,000 in 1965. The combination of low overhead (chiefly salaries of 17 employees) and low taxes left the firm with net profits of $874,500 in 1964 and $1,110,155 in 1965, just under 60 per cent of sales each year.

Kentucky River paid out much of its profits in dividends, distributing $723,949 to its stockholders in 1964 and $871,710 in 1965. Figures for 1966 were not obtained.

Visits to county courthouses where Kentucky River owns land and mineral rights accentuated the niggardly return to local governments from these vast holdings. The tax books in Hazard for 1966 showed that in Perry county, the company owns 30,933 acres of surface land and 75,200 acres of mineral rights.

Tax Commissioner (assessor) Roy Johnson valued the property at $2,864,500 altogether, but on appeal ("I always have to fight with them, year after year," Johnson said) the company had $400,000 knocked from its valuation. Its final tax bill: $19,017.

In Leslie County, which Harry Caudill has called "probably the most primitive political entity in the nation," Kentucky River was assessed a tax for 1967 of $7,850 for its 17,715 acres of coal land. Tax Commissioner John D. Muncy tried to get a few more pennies from the company with a $908,000 valuation, but Kentucky River's protest resulted in a final valuation of $782,895.

"It's politics," Muncy said, in the squalid and littered courthouse in Hyden, a cluster of dark and dirty buildings that serves as the Leslie county seat. "They have lawyers and engineers. We don't have enough information and facts to challenge them."

The Virginia Iron, Coal and Coke Co. began purchasing coal lands in 1899 and prospered during the earlier coal booms. Among the legacies it has left eastern Kentucky, is the town of Vicco, built in the boom days on the road from Whitesburg to Hazard, and which still stands today in its dreary, disheveled ugliness, unaffected by the soaring fortunes of the company whose initials it bears.

Included in Virginia Iron, Coal and Coke's wide holdings are 253,000 acres of land and mineral rights in five states with the largest single amount in eastern Kentucky. This includes 73,000 acres in Floyd, Knott, Leslie, Letcher, Perry and Pike counties.

In the doldrums as recently as 1958, the company now is boasting its highest profits ever. Its 1966 annual report said, "revenues and earnings generated were the highest in our history. Net earnings amounted to $1.09 per share of common stock as compared with $1.03 in 1965. The coal industry as a whole experienced a profitable year and your company enjoyed its proportionate position in this healthy economic market."

With $22,000,000 in sales in each of the past two years, Virginia Iron, Coal and Coke Co. had net incomes of $1,390,000 and $1,470,000 respectively and paid dividends each year totaling $678,876. Compare those figures with the local taxes paid. According to its own figures, Virginia Iron, Coal and Coke Co. had property in five states last year valued at $13,100,000, for which its tax bill came to $42,390.

In Perry county—an area so poor that last year 2,681 of its 6,000 families had sub-poverty-level incomes, according to Office of Economic Opportunity data—the company owns 6,600 acres of land and 27,500 acres of mineral rights. County tax records show that the tax bill for 1966, Virginia Iron, Coal and Coke Co's record earnings year, came to $4,653.

[From St. Louis Post-Dispatch, Nov. 20, 1967]

KENTUCKY'S METHOD OF TAXING COAL LANDS IS WOEFULLY INADEQUATE

OUT-OF-STATE COMPANIES MAKE MILLIONS OF DOLLARS WHILE EASTERN COUNTIES' RESIDENTS LIVE IN GRINDING POVERTY

"When one ton of coal is mined from Kentucky, Kentucky is poorer—forever—by one ton of coal!"—From Kentucky Labor News.

HARLAN, KY.—Ted R. Turner has been tax commissioner of Harlan county for 10 years. It is his job to place assessments on all county property. Now he was seated in his office pondering an unanswerable question: How does it happen that the land is so rich and the people so poor?

"It's hard to put your finger on," he said.

"We have the best grade of coal found anywhere. It's high priced, has low sulfur content. We've got enough coal here to operate all our mines 24 hours a day for the next 100 years."

Furthermore, Harlan county has a couple of prosperous residents. The county's largest coal mine is operated by the United States Steel Corp. at Lynch. Its second largest mine is run by the International Harvester Co.

County coal production is at record high. In 1965 the county produced 5,634,624 tons valued at $29,000,000. Last year it moved from third to second

among eastern Kentucky coal producers with 6,268,082 tons worth more than $30,000,000.

Yet in neither year—nor in 1964 for that matter—did the county manage to raise enough money in taxes to pay even 10 per cent of the costs of running its school system.

Nothwithstanding the riches beneath the magnificent mountains that cover Harlan county, the signs all point to an area sliding downhill swiftly. The population has dwindled from 71,751 in 1950 to 41,000 last year. Pojections for 1970 shrink it further to 33,200.

Office of Economic Opportunity figures show that of the 9,231 families in the county last year, 3,68—or 40 per cent—had incomes below the poverty level. In 1960, Harlan county had proportionately more poor people than 86 per cent of all counties in the United States. Last year it was worse off than 92 per cent of all other counties.

Times are not so hard for U.S. Steel and International Harvester. The nation's Number One steel producer had sales of 4.3 billion dollars last year and an income of $249,200,000.

Turner's tax books showed that last year U.S. Steel's two productive mines in Harlan county, including property valued at $9,300,000, were taxed at $34,500. The books did not indicate the amount of an additional sum paid by the company to support a small independent school district at one end of the county.

International Harvester; operator of the second largest mine in the county, paid $27,000 in taxes to Harlan county on property valued at $2,800,000.

"The only interests U.S. Steel and International Harvester have in Harlan county," Turner said. "is to pull out the coal to operate their mills.

"U.S. Steel had a town of 9,000 people at Lynch at one time," Turner recalled. "They had the largest coal tipple in the world there then. Now they're producing more coal than ever before, but the population at Lynch is probably no more than 3,000. Where their mine had thousands of employees, I doubt if they have 400 now.

"Every lump of coal they get goes out to their mills. They won't even send it around for use of the people who live at Lynch."

The experience of Harlan county is repeated again and again in every one of the great coal-producing counties of eastern Kentucky. Although coal is booming, producing greater wealth than ever, the people in the counties are poorer and more miserable than ever.

In Knott county last year, 1665 of the 2900 families—more than 57 percent—had income under the poverty level. That meant that they were in the lower 1 per cent of all American counties in the magnitude of poverty. From a population of 20,320 in 1950, the county had dropped to 16,200 and expects to have no more than 13,600 residents by 1970.

Out-of-state coal companies own an extensive portion of Knott county land. One is the Elk Horn Coal Corp., with headquarters at Charleston, W. Va. For the mineral rights to 15,107 acres of Knott county coal property this year, Elk Horn was charged $2750 in taxes. The company leases coal lands for a living and in 1965 reported a gross income of close to $1,000,000,000. It netted $506,367 on that amount and paid its stockholders $424,840 in dividends.

Other owners of Knott county coal lands include Kentucky River Coal Corp. and Virginia Iron, Coal and Coke Co., two of the most profitable operations in the coal business today. They paid the county $1985 and $306, respectively, in taxes on their properties for 1966.

"The coal companies pretty much set their own assessments," Knott county tax commissioner Delmar Draughn confided. "We pretty much have to work with them. We have no system for finding out what they own. Like they may tell us they own 50 acres at a certain place when actually they own 500 acres.

"As far as mineral rights are concerned, we can't tell what's under the gronnd. If a company says an area is barren or mined out, we have to accept it."

The valuation on land that is barren or mined out, of course, will be far less than that known to posses good coal seams.

Draughn said that in his 10 years as tax commissioner he had become convinced that "most of these companies come in here with a straight and honest list."

His confidence in the companies was not shared by some Kentuckians. A study by the Louisville Courier-Journal in 1965 concluded that "coal has been a reluctant taxpayer." The newspaper said that "the industry has been able to get rockpile assessments on land loaded with black wealth."

"Thousands of acres of coal land worth $200 to $300 an acre get on the assessment books at $2 an acre," the newspaper said. "Other thousands of acres are literally hidden from the assessor."

In Leslie county's courthouse at tiny Hyden, tax commissioner John D. Muncy described his yearly bouts with the Fordson Coal Co., a subsidiary of the Ford Motor Co. Fordson has held mineral rights to large areas in Leslie county for years. Consistently, Muncy said, the company submits valuation figures that are inaccurate and just as consistently he places a higher assessment. On appeal, Fordosn invariably wins.

Last year for example, Fordson managed to lower Muncy's valuation by 25 percent from $880,000 to $660,000. This year the company tax bill totaled $5180. Just for the record, Leslie county is the most impoverished of the eastern Kentucky coal producers, with two-thirds of its families having incomes below the poverty line. Ford Motor Co., on the other hand, reported record sales of 12.2 billion dollars last year and net income of $621,000,000.

If any further evidence is needed that something is wrong with the Kentucky taxing system, consider Pike county. Long the major producer of coal in eastern Kentucky, Pike in 1965 accounted for more than 15,000,000 tons valued at almost $61,000,000. Last year its production went up to 16,300.000 tons worth about $65,000,000.

But although it is one of the nation's richest coal counties, Pike county could raise only 18.3 percent of the $4,100,000 needed to operate its schools last year also, 45.3 percent of its people subsisted on incomes below the poverty level.

To a few Kentuckians, notably lawyer-historian Harry M. Caudill of Whitesburg, the exploitation of the state's resources by outside investors, and the traditionally inadequate local tax rates have been galling for years. Caudill is particularly impatient when local or state officials defend the coal interests as paying their proportionate share of the tax load.

E. D. Ballard, director of the property tax division of the Kentucky Department of Revenue, told the Post-Dispatch that a recent state-sponsored revaluation of property in eastern Kentucky showed that "the coal industry was not the poor taxpayer people had though it to be." In fact, he said, other classes of property were found to have been further off base in assessments than coal property.

"The point Ballard misses," Caudill responded, "is that other taxpayers are not hauling Kentucky away. The coal industry's whole business is doing that very thing. My house will stay here for generations, but their property will be sucked compeltely dry."

Caudill, who fought a lonely fight against the coal exploitation for years, is beginning to attract a few allies among elements opposed to the rising amount of strip-mining that is further scarring and gouging the mountains. The Kentucky League of Women Voters, whose project for the year is natural resources, has taken an increasingly critical look at the relationship between coal wealth and eastern Kentucky poverty. A study by the league's Lexington chapter found that the coal industry had been "very successful at avoiding taxation of their properties and their operations."

One subject that the league is looking into is the possibility of a tax on production of coal, known as a severance tax. As Caudill sees it, under the longstanding system, Kentucky receives nothing in return for the wealth drained from her hills. A tax of 10 cents a ton, for instance, on each ton of coal mined would have raised $9,000,000 for the state last year.

Politically, imposition of such tax would appear impossible, however, particularly under newly elected Gov. Louie Nunn, a Republican. Caudill had prepared proposed legislation for a severance tax for the Democratic candidate, Henry Ward, under the conviction that Ward would have sponsored it. Caudill said that Nunn's election would prove to be "an historical tragedy for eastern Kentucky."

Caudill also has helped organize and is chairman of the Congress for Appalachian Development, a group seeking to promote creation of public comporations to buy up the coal lands from the wealthy land-holding companies, by the power of eminent domain, if necessary. The public agencies then would turn their efforts to area development.

Calling Appalachia "the last bastion of colonialism," Caudill said, "we think the great wealth that was pilfered from our ancestors by shrewd and unprincipled men should be returned to the people of the mountains.

"It is certain that Appalachian fossil fuels will power much of the nation in the future. The coal and water will be turned into electricity and will be sold at a profit.

"Whether these profits will go out as dividends to distant stockholders, or stay behind to finance the institutions our people need so desperately and have been promised for so long is the question that we in the mountains must answer."

[From the Louisville Courier-Journal, Sept. 16, 1965]

TVA AND MINING RIGHTS

To The Editor of The Courier-Journal:

In your story headlined "COAL: Flood of Profit, Trickle of Taxes" in your Passing Shot section of Sunday, August 29, Tax Commissioner Jimmy Knuckles, of Bell County, Kentucky, quoted.

The story said:

"And then there was a time a few years ago when TVA declared a supplier in default of his contract and, through a specially written clause took over 8,800 acres of coal rights.

"'We get no taxes at all on the land now,' Knuckles said, 'and TVA hasn't even inquired as to what we might be entitled to in lieu of taxes.'"

Mr. Knuckles is referring here to coal mining rights in the Straight Creek seam in Bell and Harlan Counties which were transferred by Dan D. Stewart, Sr., to the United States in partial satisfaction of a court judgment resulting from failure to fulfill a contract to supply coal to TVA. No "specially written clause" was involved.

It is true that TVA makes no direct payment in lieu of taxes on this property, the reason being that no taxes were assessed against the former owner. Section 13 of the TVA Act provides the measure of TVA's direct payments to counties in lieu of taxes on any power property it acquires shall be the average of taxes paid in the two years prior to TVA's acquisition. Since Bell County did not assess or collect any taxes for two years before TVA acquired the mining rights, there existed no basis under the law for payments in lieu of taxes. TVA does make direct payments in lieu of taxes to Bell County on coal mining rights it obtained from the Redbird Timber Corporation. They amount to $278 annually.

However, Bell County does receive a share of TVA's payments in lieu of taxes to the state of Kentucky which are distributed among the counties in which TVA owns power property or sells electricty. The state distribution to Bell County, which amounted to $2,502 in fiscal year 1965, is based on the valuation of both the Stewart and Redbird properties. In total, Bell County thus received $2,780 of TVA funds paid in lieu of taxes.

PAUL L. EVANS,
Director of Information, Tennessee Valley Authority.

[From the Appalachian South, Spring and Summer, 1966]

POVERTY AND AFFLUENCE IN APPALACHIA—HOW ABSENTEE OWNERSHIP IN AN EXTREMELY RICH LAND PRODUCED A REMARKABLY POOR PEOPLE

(By Harry M. Caudill)

The publicity which preceded passage of the Appalachian Development Act of 1965 focused attention on the poverty of the huge mountainous region. The Congressional hearings revealed that median per capita income in Appalachia is substantially below that of the nation generally—only $1,405 in 1963 as compared to $1,901 in the nation as a whole. Pennsylvania mountaineers enjoy the highest income—$1,680. The figure descended progressively to the abysmal sum of $841 in Eastern Kentucky. In many Kentucky counties the per capita figure was less than half that average. In Martin County it was only $381. In fact that pathetic territory embraces six of the ten poorest counties in America in terms of per capita income.

The television camera has brought before the public gaze the spectacle of destitution in the Kentucky highlands. Affluent America has looked into the eyes of shy, ragged undernourished children. The prosperous and comfortable have seen crumbling mining shacks, filth-strewn streams, road sides littered with rusty

automobile hulks, and grim hillsides devastated by strip mining. They have been told that one-fourth the adult population is illiterate and have seen the dilapidated school houses which have for so long symbolized the failure of education. In the nation's mind, Eastern Kentucky has become synonymous with poor people. It is essential that this poverty not be associated with the land itself. Eastern Kentucky is a fabulously rich corner of the American land—natural wealth crawling with human destitution.

Kentucky entered the Union in 1792. At that time the "Commonwealth" was a veritable paradise of great forests and beautiful meadows, sparkling with clear streams and swarming with game. No other part of the new state was so bountifully endowed by nature as was the mountainous eastern third.

It boasted the widest variety of timber to be found in the world's temperate zone, and the trees were immense and superb. The forest loam was yards deep in places. The creek and river bottoms were narrow, but fertile. In and under the hills lay thirty-five billion tons of high quality coal. In huge pockets were billions of cubic feet of natural gas and rich pools of oil. The region was underlain by great brine beds. The Pine Mountain bulged with limestone and was capped with a ledge of sandstone rich in silica. Millions of tons of low-grade iron ore gave rise to iron works and later attracted investment capital from Europe.

Historically Kentucky mountaineers used a supremely rich land to become a remarkably poor people. They achieved this unenviable situation through the same factors which brought the Irish to starvation a century and a quarter ago—primitive agriculture and absentee ownership.

The immigrants brought an Indian style of agriculture which relied on "new grounds"—often cleared by fire—for crop lands. Settling at the mouths of the creeks where the fields were broadest and richest, they moved up the streams, generation by generation as the lower lands lost their fertility. They never got onto crop rotation and cover-cropping. As the population grew the agricultural techniques which had worked reasonably well for a handful of Indians proved disastrously inadequate. The mountaineers did not know how to change their agriculture and began to starve. Unlike the Irish, however, they had a fairly benevolent government. It came to their aid thirty years ago with the WPA, and now it sustains them with food stamps, the commodity dole and welfare grants.

Northern capitalists began buying Eastern Kentucky minerals more than three quarters of a century ago. The illiterate and inexperienced people put their marks to deeds which conveyed "all mineral and metallic substances and all combinations of the same" and the unconditional right to remove them by any method they "deemed necessary or convenient." For prices ranging from fifty cents to five dollars per acre these instruments delivered almost unlimited natural wealth into the hands of the harshest, most exploitative capitalists the nation has ever seen.

These companies and their lessees have mined billions of tons of coal and pumped out millions of barrels of oil. They have quarried millions of tons of limestone and now are piping away silent rivers of natural gas. The extraction of East Kentucky's wealth staggers the imagination. It continues today—as in the past—under the direction of people who have sympathy for neither the Kentucky land nor its inhabitants.

At one time the people had some considerable part in the extractive process. The mines required large numbers of workers and the mountaineers were paid to bring out the coal. To a remarkable degree modern technology has replaced miners with machines and now two-thirds of the population are irrelevant to the main business of the region—the carting away of wealth.

The poverty of the people has become publicly known—the affluence of the exploiters has been kept out of view. American business does not want to be associated with the monumental failure of the East Kentucky economy.

VICTIM OF GREAT CORPORATIONS

East Kentucky coal fires the furnaces of the world's greatest steel corporations—Inland Steel, Bethlehem Steel, U.S. Steel. The world's biggest steel producer has reduced the Big Black Mountain, once one of the world's most majestic terrain features, into a colossal wreck, ripped apart by bulldozers and dynamite to recover the outcrop coal left by the underground mines. United States Steel's legacy to Kentucky is this ravaged mountain and hundreds of miles of streams which flow thick with sediment from the spoil banks.

Pittsburg-Consolidation Coal Company is the world's biggest privately owned coal producer. Put together by the Mellon family, its operations dot the Appalachian coal-field, including Eastern Kentucky. Its profitable mining operations have enabled it to buy a controlling interest in Chrysler corporation. The President of Pitt-Consol is the Chairman of the Board of Chrysler.

In April, 1965, Dunn's Review and Modern Industry carried an article by Thomas J. Murray which pointed out that Eastern Kentucky is now probably the nation's best investment opportunity. Mr. Murray shows that coal production is rising with the expanding electric power market and that the profits are immense. For example, in 1964 General Motors made a profit of 10.2 cents out of each dollar received and paid a dividend of five cents. But an obscure Philadelphia corporation, Virginia Coal and Iron Company, netted 61 per cent of gross and paid a dividend of forty-five cents out of each dollar received. It owns 100,000 acres in Kentucky and Southwestern Virginia and is rated by Mr. Murray as the most profitable corporation in America.

Kentucky River Coal Corporation did nearly as well. This enviable record was approached by Elkhorn Coal Corporation which paid out as dividends some 35 per cent of all income gross receipts.

In addition to mineral royalties, such companies enjoy substantial revenues from their thick stock portfolios. Virginia Coal and Iron owns 275,000 shares in Southern Railway Company and received income therefrom of $770,000, 85 percent of which was tax exempt under Federal law.

Such corporation—and there are more than a score of them—enjoy an unparalled tax bonanza. Uncle Sam treats them as favorite nephews. A combination of depletion and long term investment allowances exempts about 76 per cent of all income from federal taxation. By normal standards operating expenses are nominal. Virginia Coal and Iron had a gross income of $2,484,840. Its administrative expenses were only $234,322.

Limestone, too, has proved profitable. For example, one young man commenced a quarrying operation on borrowed capital in the late 1940's and a decade later was an authentic millionaire.

Perhaps the greatest success story is that of thirty year old Ashland Oil and Refining Company. It draws crude from the hills of Kentucky and West Virginia. In the spring of 1965 it offered to buy Pure Oil Company at a price of several hundred million dollars.

Last year Eastern Kentucky sent some 700,000 carloads of coal to the markets of the world, but after half a century of such inroads the seams have been scarcely scratched. Approximately 33 billion tons of the original lode remain.

How, then, did Kentucky permit this monumental expropriation of its wealth without building a viable society and a strong economy in the hill country? The present mess, it would appear, could have been achieved only by deliberate and diabolical planning. This is not the case. Kentuckians stumbled into their present sorry plight because of indolence and ignorance.

The first two Governors of Kentucky, Isaac Shelby and James Adair, were tough old Indian fighters. Like their electorate, they were rugged individualists. Neither of them ever mentioned in any public document the need for schools. Education was left to the parents, and the parents did little about it. Until the 1850's the school house was unknown in the mountains and the first were log huts presided over by semi-literate teachers. Thus a century without education produced ignorant men and women who practically gave away the wealth of their region and reduced themselves to tenants by sufferance. Their almost equally ignorant office permitted the wealth to filter away almost untaxed decade after decade. Taxes on mining property were—and are—nominal. For example, a few years ago my $3200 Ford automobile paid as much taxes as a $75,000 mining machine. Used in the mine of a mammoth corporation, it had been originally purchased by a West Virginia subsidiary. Five months later it was sold to the Kentucky company for $5,000. When it entered the assessors books nearly a year later the $5,000 bill of sale was proof of its market value. By then, though, it had depreciated by a couple of thousand dollars, leaving a mere $3,000 to help finance the county schools.

FEDERAL TREASURY UNDERWRITES GREED OF EXPLOITERS

Marrowbone Creek in Pike County is a museum piece where all the elements of the Kentucky tragedy are concentrated. Here where the seams were richest the mining first began about 1903. Giant tipples spewed endless streams of coal

into trains which clattered away at the rate of eight or ten a day. Coal camps lined the valley and a little town, Hellier, grew up. Later oil and gas lines followed the railroad. Thirty years after the mining began the WPA built the community a school. The hundreds of millions of dollars worth of untaxed mineral left virtualy no benefit to the populace. The town collapsed. The federal treasury had to underwrite the greed of the exploiters by building such educational facilities as now exist.

It is profitable to compare developments in Eastern Kentucky with the Swiss experience. The Swiss obtained their independence from Napoleon some twenty years after Kentucky achieved statehood. The little country is almost the same size as Kentucky's mountain region, but Switzerland is comparatively poor and bleak. It contains no oil, gas, coal or iron. About one-sixth of it is suitable for timber growing and another sixth is crop-land. The remainder is barren—beautiful but unproductive.

The Swiss recognized the imperative need for education and have done an astonishing job of developing their human resources. They built schools and the schools grew into colleges and universities. Illiteracy vanished. The people developed complex skills and their country became a manufacturing power—the watchmaker for the world. It boasts seven universities including several medical centers. The Swiss have conserved their natural beauty and their cities and countryside swarm with tourists. Swiss banks lend the wealth of the world. Inhabitants of a poor land, they have built the finest social order on the planet.

Historically, Kentuckians have neglected their human resources and today in consequence the state reaps a bitter harvest:

HOW LONG WILL THIS CONTINUE?

Forty-five thousand mountaineers draw food stamps and another 80,000 line up for commodity hand outs, gifts from the U.S. Department of Agriculture. Thousands of others while away their lives at makework jobs set up under grants from the Office of Economic Opportunity—a shrivelled version of WPA. The listless people are controlled by ruthless political machines which vote them with clocklike precision. The valleys are littered with decaying houses deserted by the quarter of a million highlanders who have fled to other states. The streams reek of filth. And coal—the black bruite of American industry—accelerates its odious onslaught upon the people and every facet of their land. Kentucky's priceless beauty is being gouged to rubble and with it may go the people's last hope for a prosperous and dignified future.

How long will this situation continue? Until Kentuckians decide to control their own affairs. Until they tax the privilege of severing the wealth from the land and invest the money in schools, health centers, libraries and other public facilities. Until a knowledgeable electorate can be created capable of curbing the corporations which operate in their midst. Every ton of coal and limestone, each barrel of oil and comparable measure of gas should leave in taxes the price of at least one new brick for a Kentucky school house. These goals may be distant but the time to begin is now.

East Kentucky is sick—sick with multitudes of paupers atop mountains of wealth—sick with an ineffective political system maintained by an uncomprehending electorate. The Swiss learned long ago how to run their affairs and to prosper in the process. Will Kentuckians ever learn as much?

[From Kentucky School Journal, January 1966]

HARRY CAUDILL WRITES—AN EMBARRASSMENT OF RICHES IN EASTERN KENTUCKY

(Harry M. Caudill has long been the outstanding advocate of Eastern Kentucky carrying a larger share of the load of financial support for education and other essential governmental services. The source of this support, as he sees it and tells it in this presentation, is the proper taxation of those who profit from the extraction of the rich mineral resources of the Appalachian region.

(This particular article is based on the very provocative and convincing presentation he made before the special investigating committee last November which was sent to Kentucky to ascertain the facts related to the KEA's request for the imposition of national sanctions.

(An author, an attorney, an investigator, Caudill has become one of his region's most powerful enunciator of needs and proponent of a severance tax on the removal of the natural resources which abound in the eastern section of our state. He "pulls no punches," but backs up his hard-driving arguments with "hard" facts on production and taxation.)

As a lifelong Kentuckian, and as one who obtained all of his education in Kentucky schools, I have long been weary—almost unto death—of the failure of this state year-after-year, and generation-after-generation, to build a decent and genuinely good school system when it possesses the financial potential to do so.

Until I went to the University of Kentucky in 1941, I had the distinction—of a sort—of never having had a school teacher who was paid more than $85 per month as a salary. We are doing somewhat better than that in Kentucky now, but in those days—in the 1930's—$75 or $60 or $80 per month in Kentucky was regarded as adequate pay for school teachers.

We might say that the education that was given to people of my generation was donated to them by men and women who were willing to stay in the teaching profession practically without compensation.

As a Kentucky school boy, I sat in a dilapidated school house, year after year, and watched the trainloads of wealth rolling by the windows of that school house, wealth of a character without which this nation could not have operated for one hour or for one day.

If you go to the Department of Health, Education and Welfare in Washington and talk to some of the people in charge, they will show you maps of the United States with the social and educational trouble spots marked in black. You will see that practically all of Central Appalachia—including Eastern Kentucky—is marked in black. They would say it is an impoverished area.

If, on the other hand, you go to the Department of Interior, which keeps a record of the natural resources of this nation, you will find again that Eastern Kentucky—and the rest of Central Appalachia—is marked in black on the map.

We have in Eastern Kentucky the curious situation—the curious contradiction—of one of the richest lands on the face of the earth inhabited by what are probably the poorest predominantly white people in the United States.

I might point out that Eastern Kentucky is almost exactly the size of Switzerland, and they both are mountainous regions.

Switzerland has practically no minerals of any consequence, with the exception of stones in the mountains and the brine beds deep within the earth. Twenty-one per cent of Switzerland is barren and will grow nothing.

Eastern Kentucky, on the other hand, doesn't have a barren acre in it. In fact, it has some very rich agricultural land. Also, we have tremendous mineral deposits in Eastern Kentucky, and brine beds that vastly exceed those of Switzerland.

Yet, the Swiss today have a population of 6 million people in our Eastern Kentucky we have three quarters of a million. The Swiss maintain the world's strictest immigration laws because they have made it such a pleasant place in which to live that millions of people would like to flock there.

Eastern Kentucky has the nation's highest out-migration rate, as people flee from poverty, from poor schools, and from many other things, and move into the cities. The Swiss have brought in more foreign laborers to work there than there are people in Eastern Kentucky.

The Swiss are a people who have grown rich on a very poor land; and we Kentuckians in the mountains are people who have grown poor on a very rich land. We have done that with the help, I might point out, of the Kentucky state government through many years.

Switzerland has 22 institutions of higher learning, including five great medical schools. And Switzerland spends more money on armaments, for example, per person than any other country in the world.

The people who control Switzerland have invested heavily in education. They have built a fair tax system. We have failed to tax in Kentucky; we have failed to build a decent tax system, and we have wasted our human resources.

I think we have come to a time when it is very essential to us that we understand the possibilities of the Kentucky mountains, and of the rest of Appalachia, and do something to reverse this deplorable and totally unnecessary situation.

This is a colonial territory, and its colonial character is the origin and main source of most of its trouble. The people who own the real wealth of Appalachia

should have been its leaders down through the years in building a great school system, and in building a fair and equitable tax system. If we had had that kind of leadership, we could have built in Eastern Kentucky a new Switzerland.

We might say, "What does this have to do with Kentucky as a whole?"

Eastern Kentucky is about one-third of Kentucky, and it is an albatross hung around the neck of the rest of the state. The point I want to make is that Kentucky cannot solve its educational problems until it solves the problems of East Kentucky and of the West Kentucky coal fields.

The rest of the state cannot carry the burden of these mineral fields; and the whole state will eventually become bankrupt, or come to some kind of very serious grief, unless it faces the problem of these great colonial territories existing within the framework of the state.

Something can be done to change these things: We are going to have reapportionment this year, before the next legislature convenes. If the people of Kentucky are made aware of the things that have been happening to them and to their pocketbooks, we can get the kind of taxes on the books of this state at the next session of the legislature that will do justice to every Kentuckian.

At the present time, approximately one-third of the revenue spent by the state comes from grants in one form or another from Washington. Another third is raised from the taxpayers of Louisville and Jefferson County. The remainder comes from the other 119 counties.

After reapportionment, Jefferson County, and the other urban areas of Kentucky, are likely to have the capacity to pass just about any kind of legislation they deem necessary for the welfare of this state. If they think we need tax reform in the mountains of East Kentucky, or in the coal fields of West Kentucky, they can enact it.

Let me call to your attention a two-year-old publication from the U.S. Department of Interior, entitled, "The Mineral Resources of the Appalachian Region." It is tremendously important because it refutes an old legend—an old myth—about the Kentucky mountains. It refutes, once and for all, the idea that this is a region that cannot help itself because of its great basic poverty.

This publication points out that Southern and Central Appalachia probably is the richest resource region on the face of the entire planet. It notes that the single most valuable mineral deposit on earth is not the diamond fields of Africa, or the iron fields of South America, or the oil fields of Arabia or Libya. Rather, the single most valuable mineral deposit on earth is a rich seam of coal that starts in Pennsylvania, and extends across West Virginia and Western Virginia, into Eastern Kentucky.

Coal is the industrial muscle, the power, that has run this country for more than 100 years. The modern industrial American state was built on Appalachian coal; this coal powered the arsenal of democracy that won World War II. We must learn that the Appalachian mountains are now, have been for many years past, and will be for the foreseeable future, absolutely indispensable to the industrial well-being of the United States.

As this book points out—citing both European and American economies—the mineral resources of the Appalachian region are absolutely indispensable. They are not valuable; they are priceless. If the country cannot dispense with them, no price can be placed on these resources.

In Eastern Kentucky there still are some 35 billion tons of high-grade coal. Some 22 billion tons of that coal can be recovered under conventional methods of mining. In Western Kentucky, there are about two-thirds of that much more—of lesser quality, but still very excellent coal.

The question we come to next is whether the people who control these coal deposits—and the other great mineral resources that are lying alongside and over and under them—are paying their fair share of taxation to this state.

Many people have seen the better schools we have in Eastern Kentucky after some 15 years of steady improvement. But that's not to say they are good, or decent, or that they are beginning to approach an acceptable standard. They are not beginning to approach an acceptable standard because the people of this state cannot pay enough money in sales tax levies to support them at a decent level.

We must make the great land owners, and the owners of the great wealth of this state pay their fair share.

Who are the great land owners in Eastern Kentucky? You will find they are the great names in American industry—Bethlehem Steel, Republic Steel, United

States Steel, International Harvester, and the Ford Motor Company, to name just a few. You will find such lesser known companies as the Big Sandy Corporation, the Kentucky River Coal Corporation, and the Penn-Virginia Company.

These latter companies are almost unknown to the people of this state. They operate quietly, and very much in the background, but they have one distinction which very rarely reaches public attention: They are the nation's biggest profit earners.

The people of Perry County, Kentucky, have two distinctions. They have the distinction of making what I believe is the smallest contribution to the support of their school system of any county in the state. As the same time, this county has within its boundaries what are probably the two biggest earners of all investor-owned corporations in the United States.

This county pays about 3½ or 4 per cent of the cost of running its schools. Operating within the county are the Kentucky River Coal Corporation and the Penn-Virginia Company, which own enormous tracts of territory and lease coal and other minerals for extraction. These two companies clear, after taxes—according to their own stockholders, reports—some 60 to 61 cents out of every dollar taken in.

Back in 1965, the president of the Penn-Virginia Company consented to an interview with a reporter for a business magazine. The things he said then are very valid today.

He pointed out that East Kentucky suffers from "an embarrassment of riches"—that a tract of land in Pike County, for example, will have one lessor, one lessee mining coal, another taking out oil and gas, another taking out limestone or sandstone, and still another one taking off the timber.

The president of this company pointed out that more than half of their operating expenses are paid from their smallest source of income, the timber stumpage. The way the tax laws of this country are written, some 85 per cent of their money is retained. In other words, about 75 per cent of all their income is tax exempt through a combination of depletion allowances, long-term investments, etc.

They are able to pay out 45 per cent of gross receipts annually to their stockholders, and still put about 15 per cent away into stocks of companies with which they do business—power companies, rail companies, and others. Eight-five per cent of the dividends they collect, then, are tax exempt.

They are literally "rolling in the dough." They have money pouring out of the ground by day and by night. Imagine what it is to be in a company that takes in an enormous flow of money, and has—as this company does—a total of 17 employees. About all they have to do is check on the payments to be certain they are being paid properly, take the money to the bank, divide it, and invest what they don't pass out to the stockholders.

You won't see "an embarrassment of riches" on the school grounds of East Kentucky, because these companies, and the people who serve them in the courthouses of Eastern Kentucky and in the capital of Kentucky, have learned long ago to spare these people the inconvenience of having to pay taxes.

Not only the great landowners and leasing companies are exempted largely from taxation, but the great operating companies, to a very large extent, escape taxation at the local level.

Let us compare, as an example, the tax burden of a certain copper company in Arizona with the burden borne by the United States Steel Corporation in Harlan County. US Steel operates a very large mine there through the US Coal and Coke Company.

The copper company, in 1967, had listed for taxation in the state of Arizona, property worth $49,457,000. It paid property taxes in the sum of $1,727,000. That means it would require 28½ years to pay that state in taxes an amount equal to the appraised value of its property.

If we look at the US Steel mine, we find it had an appraised value of $9,300,000, on which it paid Harlan County taxes amounting to $34,500. This means it would require 270 years for US Steel to pay Harlan County an amount equal to the assessed value of its property. There is a difference.

Recently, there was a story in the Hazard paper telling about the opening of a giant new mining complex in Knott County 14,200 acres of coal were going to be developed; 1,250,000 tons a year were going to come out of the ground; 250 people were going to be employed.

What is that coal property paying the people of Knott County? A total of 22 cents an acre.

The sales tax doesn't apply to them, either. If you buy concrete blocks to build a house, you pay sales tax on them. If you are a big coal company operating under the mining laws, these same concrete blocks would be exempt from the sales tax. The same is true about drills: The dentist pays sales tax on a drill to use on teeth; the mining company pays none on a drill to use in extracting coal.

We need a state severance tax. Every ton of coal, every comparable measure of natural gas, every barrel of oil, all the limestone and other minerals, including ball clay and zinc, ought to pay the state of Kentucky at least the price of a new brick or two. That money ought to be translated into new schools, into laboratories, into libraries and all the things that are necessary to teach.

Second, we need to see that this property is properly assessed, that it is put on the books, and that it is taxed. I would agree that you cannot get fair, full market value on the tax books, because this property is invaluable. You can't get its true value, but you can get a great deal more than you are getting now.

Third, I think support should be given at the national level to Senator Lee Metcalf's bill, which would levy a federal severance tax under circumstances that would let the states keep the money. That would bring into Kentucky an estimated \$28–30 million each year.

Finally, we need to split the depletion allowance. If the depletion allowance is reasonable and fair and just for the company, on the ground that its reserves are being depleted, then it is fair also for the counties which are dependent on those reserves.

What we need is a bill that would raise the depletion allowance—perhaps to 30 per cent or so on all of these minerals. Let the company take off the first 30 cents, and then let the federal government levy a tax at the rate of 50 per cent of the money that the company keeps by virtue of the depletion allowance.

Let that money be put in a trust fund, and then be fed back into the counties from which it comes. If they could be cut in on this kind of sharing of depletion allowance benefits, they could within a few years build the libraries, build the schools, pay the teachers, build the industrial sites, build the sewage facilities, and do all the other things necessary to build a viable economy.

[From the Appalachian South, Spring and Summer, 1966]

West Virginia Wonderland

(By William C. Blizzard [1])

TO BELIEVE IMPOSSIBLE THINGS

Alice laughed. "There's no use trying," she said: "one *can't* believe impossible things."

"I daresay you haven't had much practice," said the Queen. "When I was your age, I always did for half an hour a day. Why, sometimes I've believed as many as six impossible things before breakfast. . ."

The White Queen in Lewis Carroll's famous fable must have spent her childhood in West Virginia. For the Mountain State is indeed a Wonderland similar to that traveled by Alice, a mirror world where everything is upside down and backward.

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[1] William C. Blizzard comes from early Appalachian pioneers. He is from a long line of coal miners and fighters for a better life through union organization. Both of his grandfathers were miners. So was his father, the fearless "Bill Blizzard," noted for heroic leadership in pioneering union struggles on Cabin Creek and elsewhere. In those days union men faced both the company gun thugs and treason indictment in the courts. "Bill Blizzard" was a part of the leadership in the famous armed march against the coal operators in September 1921. He was tried for treason (We plan a feature story on him in a later issue).

At the age of 70 William C. Blizzard's paternal grandfather quit mining because of ill health. He and his wife started a restaurant on Cabin Creek which became a landmark as "Mother Blizzard's Restaurant." Striking, hungry miners were never turned away from its doors. The restaurant is now run by a Blizzard uncle.

William C. Blizzard is a West Virginia University graduate with English literature major. He studied at Columbia in journalism and did further studying in photography. He is now on the staff of the State Magazine of the Charleston Gazette and Mail as photographer and feature writer.

Everything? No. There are many positive virtues in West Virginians and many positive aspects of West Virginia. But is it not impossible for a rich state to be a poor state? Is it not impossible for West Virginia politicians to boast of their sympathy for the common man while at the same time imposing the most regressive system of taxation in any of the 50 states?

Is it not impossible for most wage earners to overwhelmingly support a Democratic party which recently piled still more overwhelming sales taxes upon their already heavily burdened backs? Is it not impossible for highly educated school administrators in the West Virginia Education Association to advocate and become parties to the passage of such taxes, knowing their regressive and unjust nature, when teachers are supposed to inculcate in the young the virtues of fairness and justice?

Is it not impossible for newspapers and businessmen to complain that West Virginia is run by labor leaders (it used to be John L. Lewis exclusively), when the power of the coal operator in the Mountain State has for more than 50 years been undisguised, unashamed, and supreme? Is it not impossible for a governor of West Virginia to be reviled by West Virginians because he advocated a severance tax to retain some of the wealth of West Virginia for some of those very same West Virginians?

None of the above six conditions is impossible. If the White Queen *had* spent her childhood in the Mountain State, she might have easily believed them before breakfast. For they are perfectly true. If modern Alices or Als need practice in believing the impossible, they should step through the looking glass into West Virginia.

RICH AREA, POOR PEOPLE

The problems of other states of Appalachia may not resemble those of West Virginia in detail, but it is probable that residents of such other states may find enough parallels to be instructive. For, as Harry Caudill and others have pointed out (not in these words), common miseries inflamed by common causes make common bedfellows.

West Virginia has been and may yet well be one of the richest areas in the world in natural resources. Since about 1931 it has led the nation in bituminous-coal production. The late Jesse V. Sullivan, of the West Virginia Coal Association, once estimated that if all the coal in the mountain State were stacked into a monument one acre square, it would make a sort of pylon for astronauts 17,526 miles high.

West Virginia once held first or second rank in the nation in natural-gas and petroleum production. Both industries have been declining for 50 years, but Paul Benedum, of the famous oil family, has stated that three-fourths of West Virginia's original oil deposits are still underground, waiting to be tapped.

Immense sand deposits enable West Virginia to rank second in the United States in glass manufacture. West Virginia timber production once placed the State among national leaders in that field, although production is now about one-third of its peak.

It is evident, without further elaboration, that West Virginia is a rich state. Yet it is also obvious that West Virginia is a poor state.

COLONIAL TYPE EXPLOITATION

This paradox is more easily understood if the situation is described a little differently: Much wealth has been extracted from West Virginia natural resources, but little of that wealth has remained in the hands of West Virginians. The reason for this, of course, lies in the exploitation of Mountain State natural resources by outside capital.

The resemblance of West Virginia (and much of the rest of Appalachia) to the colonial domains created by Great Britain and other powers during the 19th century imperialist era has been pointed out by several writers. That is, outside capital in both cases milks its victims of natural resources while dominating the native government and treating the natives as contemptible, expendable, and a source of cheap labor. The fact that such capital may serve, willy-nilly, an ultimately progressive end does not alter its essentially aggressive, brutal character.

The situation has not changed, basically, in West Virginia today. The coal industry, obviously, has been the principal architect of the Mountain-State economy, and, as such, has dominated state government. In recent years (since Franklin Roosevelt's New Deal), labor unions, particularly the United Mine

Workers of America, have had some influence on legislation and legislators, but the coal industry and its allies yet dominate the state.

On occasion, it is true, the natives have rebelled, as they have rebelled in all colonial areas. These rebellions, after being harshly suppressed, are usually pointed to by some politicians and economists as examples of the "unfavorable labor climate" which, they cry, is ruining the state.

BY MANIPULATING TAX STRUCTURE

In fashioning the economy of the Mountain State, the coal industry and its allies have necessarily given much attention to taxes. When a single coal company may own thousands of acres of property in a single county, this concern is understandable, as is the concern of the coal company with the health, welfare, and attitudes of the local assessor.

Stated in the simplest terms, it has been to the interest of the coal industry to keep its own taxes low or nonexistent, so that the wealth coming from the hills of West Virginia benefits those not from West Virginia; conversely, it has been in the interest of West Virginians (or would be) to tax the coal industry rather heavily, so as to retain at least a portion of West Virginia's wealth in West Virginia.

In this continuing war, small-income West Virginians haven't had a chance. Key battles on behalf of the West Virginia taxpayer have invariably been generaled by organized labor, and the fight has sometimes been impressive. But the tax structure in West Virginia remains largely as the coal industry wants it.

This structure is most interesting, and, from the point of view of the wage-earner, small businessman, and white-collar worker, most revolting. Before examining this system as it is, it might be well to comment on tax systems generally. Any good encyclopedia will amplify the following brief information.

Economists classify taxes as progressive if they are based on the ability of the taxpayer to pay; they are regressive if they are a flat rate on rich and poor alike, without regard to the ability to pay.

An example of the progressive tax is the graduated income tax. An example of a regressive tax is the sales tax on consumers or on gross business. Although taxing in accordance with the ability to pay seems most fair and equitable, the principle is widely disregarded. Nowhere is it more widely disregarded than in West Virginia.

Thirty-three states, West Virginia among them, levy consumer sales taxes. West Virginia in addition has a gross sales tax, levied not on the net income of a business, but on gross sales (even if there is a net loss). It is a highly classified tax which falls with unequal force upon different businesses, and it penalizes most heavily the small businessman and the man just getting started. The state also has special sales taxes on cigarettes, liquor, soft drinks, and other items which are obviously not absolute necessities.

The combination of these three sales taxes, plus similar local taxes, makes West Virginia taxes the most regressive of any in the nation. The consumer also gets hurt by the shifting of taxes imposed on businesses, but this standard markup as part of the cost of doing business is general everywhere, and not specifially a Mountain State problem. State Senator Paul Kaufman points out:

"West Virginia collects about 45 percent of its general revenue from gross sales taxes, 30 percent from consumers' sales taxes, and 10 percent from sales taxes on specific commodities such as cigarettes and liquor. These figures are inexact . . . but in any event we collect approximately 85 percent of our total general revenue from sales taxes (*none* of which are based on 'ability to pay') as compared to Kentucky's 26 percent and Illinois 44 percent, for example."

NO CORPORATE INCOME TAX

There is no corporate income tax in West Virginia, although Senator Kaufman has introduced a bill providing for such a tax in the current session of the legislature. There is no severance tax on natural resources, an omission in West Virginia comparable to a failure to tax coffee in Brazil. There is a property tax—and coal companies own much of the surface area of West Virginia—but this tax is light.

A 1954 report of the Governor's Commission on State and Local Finance concluded: "In West Virginia, property is valued erratically; taxed lightly; and distributed unevenly." The Commission further reported: ". . . the total assessed value of all real estate in West Virginia in 1953 was $105 million *less* than it was before 1932 (my italics)."

It is no doubt true that the tax on coal company personal property is often absurdly light. A friend of mine in Clay County once told me that he knew for a fact of a coal company locomotive that was assessed at less value than his old-model car.

The gross sales tax applies to the coal industry, as it does to chemicals and metals. But in the January 23, 1966, issue of the Charleston Gazette, columnist George Lawless made this point: "Theirs is largely a resource-based raw-material industry, as is coal, and they do not pay a state tax on point-of-sale transactions at distant markets—where real profits are made." In contrast to the large, high-profit industries, the low-margin businessman is hurt badly, at times, by the gross sales tax, for it taxes total volume whether or not a profit is made. That is, the low-profit man, which means the little man and the beginning business man, often takes a loss but must still pay a tax on his gross.

TAX BURDEN ON LITTLE PEOPLE

Just to add insult to injury, the West Virginia sales-tax law exempts sales of machinery and supplies to be used or consumed in the business of manufacturing, transportation, communication, and production of natural resources! The law is careful, however, to collect one penny on each six-cent purchase (through 35 cents) from a widow living on a welfare check. This amazing feature of the Mountain State sales tax is a tribute to the thoroughness of coal-company tax experts. No one knows how much money repeal of this exemption could mean in tax dollars, but estimates range to $30 million.

It should not be forgotten, however, that the primary consumer aim is the replacement of a regressive tax system by a progressive one, not amending of the gross sales tax to include those deliberately excluded.

In short, the coal-industry-dominated government of West Virginia has created a tax structure which has shifted nearly the entire tax burden to the consumer and small businessman. In so doing, it has ignored a principle of taxation set forth by Adam Smith in "Wealth of Nations," namely, that each taxpayer should pay in proportion to his ability.

It has adhered to a taxation principle attributed to Colbert, the finance minister of Louis XIV: "Pluck the goose so as to obtain the most feathers with the least squawking."

The inequity of the sales tax, for the benefit of those yet unconvinced, was described by the noted economist E. R. A. Seligman before the Senate Finance Committee of the 67th Congress as long ago as May, 1921:

"But when you come to a general sales tax you are dealing with a tax on necessaries, inasmuch as the great mass of sales are sales of necessaries. . . . Therefore, as the French writer in the Middle Ages pointed out, a general sales tax is a sort of upside down income tax. Instead of taxing the man with a higher income a little more, or much more, as we do, you tax the man with the smaller income not only relatively as much, but relatively more. It is this instinctive reaction of the common man to the proposal of a sales tax which is responsible for the opposition to it manifested from the time of the Romans under Tiberius all the way down through the Middle Ages, when the riots took place, down to modern times, as in this very country, where the laboring classes are now up in arms against it.

"No civilized country before the Great War has ever succeeded in maintaining a general sales tax."

Seligman, needless to say, would not be happy with the present West Virginia tax structure.

ORGANIZED LABOR OPPOSED UNFAIR TAX

He would not be alone in his unhappiness. The West Virginia AFL–CIO has consistently tried to rectify the lopsided tax structure. Small business has found a voice in Sen. Paul Kaufman and others. Ordinary West Virginia taxpayers complain, but it is unlikely that they, as a whole, understand to what extent they are being bilked. A purpose of this article is to inform that understanding.

Administrators and politicians in state government are becoming more and more alarmed about an obvious fact: West Virginia revenue is insufficient, in this modern age, to provide adequate state services. This is true even though a 1960 Tax Study Commission report revealed that West Virginia ranks first among 12 selected states in per-capita taxes as a percentage of income—although the same study showed that in most cases West Virginians have less per-capita income to pay it out of.

"BAD TAXES DRIVE OUT GOOD PEOPLE"

West Virginia educators have been yelling for a long time about lack of funds for buildings, teachers, and administration. There is no doubt whatever that West Virginia has for years been training teachers who have promptly moved out of the state to lower hills and higher pay.

Other professionals are also leaving, and are difficult to recruit from other areas. The president of the W. Va. Medical Association recently pointed out that only 20 of the first 150 graduates of the West Virginia University Medical School are practicing in the state.

This general exodus of trained professionals is an example of what might be called Taxation's Coal-Dust Law: "Bad taxes drive out good people." The well-known exodus of former coal miners from West Virginia is another matter, a movement based not so much on a search for higher pay, but for any pay at all. As I have written before, all workers should observe the plight of the coal miner in Appalachia and beware. That highly automated, electronic bell tolls for thee, and automation will come to all job classifications and all industries.

EDUCATORS HELP MAKE TEMPORARY SALES TAX PERMANENT

It was largely in response to demands of educators that Gov. Hulett Smith and the 1965 Democratic legislature made a "temporary" three per cent sales tax permanent. Since 1933, the tax has been two per cent (beginning at one penny on six cents) on the dollar until upped by Democratic Gov. W. W. Barron in 1961 to three per cent. Barron, in asking for the increase, explained that it was to finance a work and training program for the unemployed, and was to last for only seven months. A Charleston Gazette editorial of January 14, 1961, told West Virginians: "As we said, this is a temporary measure. The extra tax which will be collected Sunday will expire August 31. . . ."

Because there was no untoward squawk from the plucked geese, this tax did not expire, but was extended no less than four times. Encouraged by the lack of organized opposition to the added sales tax, the Hulett Smith administration made the "temporary" tax permanent. It would be bad manners to suggest that the hoopla about the tax being temporary was a strategical hoax on the public.

To close students of Mountaineer fiscal history, or even to a casual student like me, the ploy of a "temporary" tax being made permanent sounded and looked like West Virginia tax history repeating itself.

SMALL TIME POLITICIANS EXPLOIT ROOSEVELT MEMORY

The original West Virginia consumers sales tax was passed under the leadership of Democratic Gov. Herman Guy Kump, a small-town mayor, banker and politician. Kump scooted in with the Roosevelt landslide of 1932, a landslide so complete in West Virginia that every branch of state government belonged to the Democrats for the first time in 40 years.

The Democrats have been in power ever since, although the Republicans did manage to elect Cecil Underwood as governor in 1956. The Democrats regained their complete grasp of state government with the election of Gov. W. W. Barron in 1960.

A major reason for the continuous Democratic power in the Mountain State is the high percentage of unionized workers and their trust and affection for Franklin D. Roosevelt and his memory. Yet one of the first acts of the West Virginia Democrats, who rode to power on the coattails of FDR, was to pass a consumers sales tax, the sort of tax which FDR publicly denounced at every opportunity. This is not to say that the common man should desert the Democrats for the Republicans.

A DONKEY OR AN ELEPHANT?

It is to say that the coal operators and their allies would just as soon ride a donkey as an elephant—and they do. They are too shrewd to place blind faith in party labels, and the ordinary consumer would do well to become as shrewd.

To revert to Kump's original, two percent sales tax, it also was enacted, in 1933, as a "temporary" revenue measrue to aid public schools. And it also was later made permanent, in 1937, under a succeeding Democratic governor, Homer Adams Holt. It seems that the Barron-Smith tax ploy was merely a copy of the earlier Kump-Holt strategy.

In 1941, the legislature exempted certain foods from the sales tax, and in 1943 another law abolished that amendment, but eliminated the tax on the first 50 cents spent for foodstuffs. These slight, temporary gains for the West Virginia consumer were wiped out in 1951. Today there are no food or drug exemptions of any kind and you start paying a penny tax on a six-cent purchase, if you can find anything to buy for six cents.

A PENNY TAX ON SIX CENTS PURCHASE

West Virginians now pay a penny sales tax on commodities costing six cents through 35 cents; two cents from 36 to 70 cents; and three cents sales tax from 71 cents through one dollar.

In levying a penny tax bite on six-cent purchases, West Virginia may be the world's champion sales-tax collector for the small-income taxpayer, particularly in view of the fact that West Virginia exempts no food or drugs. West Virginia began its sales tax at a lower level than any other state.

Despite this increase, there are indications that state officials and legislators are looking desperately for additional sources of revenue. Howls of educators have not ceased. On January 24, 1965, a team of Concord College officials warned that West Virginia higher education is slipping fast and "in real danger" because of inadequate funds provided for colleges and universities.

The West Virginia Welfare Department recently told the House Finance Committee that unless more funds were provided in the 1966–67 budget, 10,000 poor would have to be stricken from the rolls of the ADCU (public works and training) program. This was the program instituted by Gov. Barron, to be paid for by the "temporary" one per cent sales tax increase. The fact that this added sales tax has been made permanent is apparently not enough, today, to keep the welfare program going.

State School Superintendent Rex M. Smith told the same Finance Committee: "I think it will be impossible to take care of the (educational) needs of the state under the present revenues." Dr. Leonard C. Nelson of West Virginia Tech was also grim about higher education under present legislative budgets. He pointed out that the proposed budgets were based on an expenditure of about $650 per pupil, while the national average is about $950.

Another hole in the West Virginia tax sock was a recent adverse decision by the State Supreme Court concerning a transportation privilege tax levied against gross income (for the most part) of various transportation media. The State Supreme Court held last summer that certain aspects of the tax were unconstitutional.

But the tax is still being collected, the state taking the position that the matter is still in litigation, pending a possible appeal to the U.S. Supreme Court. Although this may make tax receipts look a little better, it is likely that up to $20 million will have to be refunded to transportation companies, and more than $2 million of tax revenue a year will be lost.

An ironic footnote is that a statewide property reappraisal program, which optimists hoped would improve the West Virginia tax picture, may have to be abandoned unless the state budgetary agency, the Board of Public Works, gives reappraisal officials more money to work with. The reappraisal program, in existence for seven years, has been completed in 36 of 52 counties.

In order to help out the school system, Gov. Hulett Smith is trying to get the current legislature to prepare a constitutional amendment to make school-bond levies possible by a simple majority vote. At present, 60 per cent of those voting must approve a bond issue. Sometimes bond issues are desirable but they are expensive (in interest charges) substitutes for an adequate tax system.

As an example of how expensive bond issues can be, I'll quote a letter to the Charleston Gazette from E. E. McMurray of Ravenwood. McMurray points out that the original amount of a Jackson County school bond issue passed in 1960 was $2,676,000, with an interest rate of four per cent, to be paid off by 1984. In 1966, according to McMurray, the principal remaining is $82,000, and the interest is $90,000.

PLUCKED GOOSE BEGINNING TO SQUAWK

In short, West Virginia state government in 1966 needs more money, and needs it badly. It has gone about as far as it can go with sales taxes, for the goose is beginning to squawk.

This is evidenced by the introduction in the 1966 legislature by Senator Paul Kaufman and Delegate Kenneth Auvil of a bill to tax corporate income. Quite predictably, the bill is opposed by the West Virginia Chamber of Commerce, the West Virginia Coal Association, and the West Virginia Manufacturer's Association.

It is interesting that Kaufman, who is leading the fight for the bill, is not merely introducing specific legislation, but is arguing for a different philosophy of taxation in West Virginia—a philosophy endorsed by Adam Smith—based on the ability to pay. Kaufman desires to eliminate the gross sales tax and reduce the most glaring inequities of the consumers sales tax.

MARLAND FOUGHT FOR SEVERANCE TAX

It is possible that he will eventually work for a severance tax, although there will be many a legislative skirmish before this main battle can take place. Making headway against the coal operators and their allies is no easy task in West Virginia. But in the realm of taxes in West Virginia, one thing is sure: More revenue must be derived from some source, and the consumer is going to resist mightily any additional burden.

With small businessmen and small consumers squawking like a whole gaggle of geese, the legislature will be forced to attempt to impose taxes on the large corporations doing business in West Virginia, and the attempt will be interesting to watch. It has been tried before.

A noteworthy attempt, the most noteworthy in West Virginia tax history, was made under the administration of the late William C. Marland, West Virginia governor from 1953–57. Marland, a Democrat, proposed and fought for a severance tax on natural resources. But before examining Marland's interesting tax proposal, let us look, very briefly, at a few more tax facts in West Virginia, and review a few previously mentioned.

Before the second decade of the 20th century, West Virginia was predominately an agricultural state. The principal tax base was property, and this remained true until 1933, when a Tax Limitation Amendment drastically curtailed existing and potential revenue from that source.

Since 1933, sales taxes have been the principal source of state revenue. The consumers sales tax remained at two percent from 1933 until the raises mentioned above in 1961 and 1965. The gross sales tax began at only one-tenth of one per cent for all industries, but over the past 30 years has increased from 20 to 70 times that amount, depending upon the industry taxed.

Nevertheless, the gross-sales-tax burden on West Virginia manufacturers is not nearly so great, relatively as the sales-tax burden on consumers. Vance Q. Alvis, associate professor of economics at West Virginia University, is authority for this in a special study of the gross sales tax. "Although most states," says Professor Alvis, "do not levy a gross receipts tax, the tax upon manufacturers does not appear to constitute an unduly heavy tax burden in the states which do. To the extent that the tax is shifted to West Virginia consumers, it is light by comparison with the consumers sales tax rates."

UNIONS FOR PROGRESSIVE TAX

The West Virginia AFL–CIO, Senator Kaufman, and a few others, plan to replace the gross-sales tax, eventually, with progressive taxes such as a corporate income tax and a personal state income tax. No corporate income tax exists at this writing, but a personal income tax does, enacted by the 1961 legislature. The legislature did not, unfortunately, ease the personal tax burden by lightening the consumers-sales-tax load, so the West Virginia consumer in 1961 found himself with yet another tax burden, as he does today, only more so.

From the point of view of the consumer, the worthy tax aim in West Virginia today is to abolish regressive, inequitable taxes, and establish taxes based on the principle of ability-to-pay. From the point of view of the coal industry, other extractive industries, and large manufacturers, the desirable tax aim is to keep matters pretty much as they are (more sales taxes on consumers being almost out of the question).

But if more state revenue is needed, and indications are that it is desperately needed (even the matching of federal funds on a magnificent 90–10 basis is becoming difficult), tax revenue must be increased. It appears that the time is fast approaching when what may loosely be classed as "Big Business" in West Virginia must be taxed.

How heavily it will be taxed, and the tax relief granted the "little man," will be determined not by good or bad intentions but by the political strength of the contending parties.

As was mentioned, Gov. William C. Marland had the temerity to propose, in coal-industry-dominated West Virginia, a severance tax on natural resources. On January 23, 1953, Marland, in the conventional introductory message to the legislature, proposed his most unconventional (in West Virginia) tax to raise $18 million a year.

Except for an "inner circle" which almost surely was consulted, his proposal came without warning to friend or foe. The natural-resource industries, headed by coal, immediately declared war. Marland in turn called in all available allies, an array which was outwardly impressive.

In the first place, Marland's severance tax had the support of the United Mine Workers of America, an organization which then had 115,000 members in West Virginia, and was a powerful political force. The AFL-CIO added its endorsement.

West Virginia educators publicly supported the severance tax (although in the light of their support of a heavier sales tax, it is probable that desperate Mountain State teachers will support any tax measures which will contribute to teacher salaries and general school aid). State School Superintendent W. W. Trent said he favored the tax "without qualificaton," and Phares Reeder, Executive Secretary of the W. Va. Education Association, also voiced his support.

All but one member of the entire West Virginia national congressional delegation—two U.S. senators and five representatives—voiced approval of the severance tax. The lone dissenter was Republican Representative Will C. Neal of the fourth district.

These seven senators and representatives not only voiced their approval of the severance tax, but all or nearly all actually journeyed from Washington to Charleston to argue for the bill in public hearings. One U.S. Senator, the late Matthew M. Neely, had much of his argument for the tax printed in the February 18, 1953, issue of the Charleston Gazette.

BATTLE BETWEEN ABSENTEE OWNERS AND PEOPLE

His argument concluded as follows: "The battle raging over the pending question is largely between absentee captains of industry on the one hand and the men, women, and children of West Virginia on the other. It is what Lincoln described as a contest between the God-made man and the man-made dollar. In such case, count me on the side of the God-made men, women and children every time."

At the state legislative level, House Majority Leader Martin C. Bowles, who was also an AFL-CIO attorney, was for the severance tax. In 1953, there were almost three times as many Democrats as Republicans in the W. Va. house, and more than twice as many Democrats as Republicans in the senate.

Both the Speaker of the house and the President of the Senate were Democrats, which meant that important committee chairmanships (often vital in the passage of legislation) were in the hands of the party of Governor William C. Marland. If voting had been along party lines, Marland would have gotten his severance tax without a struggle.

But voting on the severance tax was not, of course, along party lines. Just what did motivate the legislators who killed the proposed legislation will not be suggested by this writer, inasmuch as it is considered impolite to question the motives of politicians. I shall merely show the deployment of forces.

It is almost superfluous to point out that the forces against the severance tax were led by the coal operators and their varied associations in West Virginia, ably backed by the other natural-resources industries which the bill would have taxed.

PRESSED OPPOSED SEVERANCE TAX

The West Virginia press was almost unanimous in its opposition to the severance tax. The Charleston Gazette, the state's largest paper and not so liberal in 1953 as it is today, may be said to have led the fourth-estate fight against Marland and his tax. The Gazette ran many editorials and many cartoons, some of them quite clever, purporting to prove that John L. Lewis was threatening to take over West Virginia.

Above the signature of the late Frank A. Knight, then managing editor of the Gazette, appeared this dire warning: "John L. Lewis, as the real mastermind, will get control of the West Virginia coal industry, of the state police, of the

Workman's compensation fund, and of the unemployment compensation fund, making it a strike fund."

Governor Marland reacted by mailing a "letter to the editor" to the Gazette, writing that "it would seem only fair to the readers to inform them . . . that a distinguished member of your editorial board is Mr. Carl Andrews, Secretary of the West Virginia Coal Operators Association."

Although it is never wise to underestimate the role of the press in shaping public opinion, that role has been complementary rather than decisive in West Virginia. Marland's severance tax was defeated in the legislature, or, rather, by maneuvers which were manifest in later actions of the legislature.

In retrospect, it is evident that the severance tax never really had a chance, despite the impressive outward strength of the pro-Marland forces. The bill did get out of the House Finance Committee, as amended, but without recommendation, on March 3, 1953. On March 5, the house voted by a majority of 56 to 41 to postpone indefinitely further consideration of the bill. The senate version had been killed two days earlier in the Senate Finance Committee, so the battle was ended.

Said Senate President Ralph Bean (who had opposed the tax) a few days later: "The 1953 legislature has been independent in its thinking and actions; it has not been controlled by any one person, group, or faction." And who could *prove* him wrong?

West Virginians who yet favor a severance tax—and many do—might study in detail the 1953 battle for such a tax which I have outlined so briefly. The basic opposing forces have not changed. They are the coal industry and its allies on the one hand and consumers represented by organized labor and more-or-less organized consumer groups on the other.

Even a cursory study indicates that changing the tax philosophy and tax structure in West Virginia involves first changing the legislature, and this is a political task not likely to be accomplished quickly. Practically, it means work within the dominant Democratic party to strengthen its liberal and progressive segment and wrest leadership from the now-powerful conservative faction. This means increasing attention to candidates in primary elections, inasmuch as the Democratic nomination is so often tantamount to election.

Progress is not apt to be easy or rapid, nor is the West Virginia press, generally, likely to change its coal-dust spots and inform ordinary West Virginians concerning their best tax interest. It is also true that the UMW has in the past decade lost political influence, if only because it has lost so many members, and, with politicians, votes count, or even potential votes.

This means that a once-powerfu advocate of the severance tax in West Virginia has been weakened since 1953. Also, it seems evident that the UMW leadership, at least on a local level, no longer feels so strongly about such a tax.

On the positive side, it is probable that the AFL-CIO will grow in West Virginia. This is by no means certain, however, as national events and national politics only indirectly related to labor can have a pronounced effect, pro or con, on the Mountain State labor climate. It is certain that tax reform in West Virginio depends a great deal upon AFL-CIO growth assuming that the union does not deviate from its excellent past record on tax reform.

REGIONAL PROBLEM

It also depends upon the growth of independent consumer organizations of a local or regional nature, or both. A regional out look seems logical, for the states within Appalachia are plagued by many common problems.

Although taxation in a single state, in detail, is an extremely complex animal. it is possible to pick out its major bones and thus get a better idea of the nature of the whole beast than if the creature is studied bit by bit in its enormous, living detail.

Fossil experts thus recreate the detailed appearance of giant animals that once strode the earth. I believe that an examination of the bones of the West Virginia tax structure reveals a sort of fiscal *Tyrannosauris Rex* astride the backs of ordinary Mountaineers.

But this great toothed reptile can, in time, be turned into a harmless chameleon. On a short-term basis some of its fangs can be pulled. Does this sound impossible? Perhaps so, but I prefer to believe it. Like the White Queen in her youth. I sometimes believe as many as six impossible things before breakfast. It makes life not only bearable, but hopeful, in a looking glass world.

[From Dun's Review and Modern Industry, April 1965]

It has capital gains, depletion and unbelievably high profits, yet it is . . .

THE INVESTMENT NOBODY KNOWS ABOUT

One wintry afternoon a few months ago, John S. Cline Jr. brought his car to an abrupt halt at a street corner in his native Pikeville, Kentucky. His wife quickly informed him that their car had the right of way, no stop was necessary; just as quickly Cline retorted that it was. "Here comes a coal truck," he drawled, pointing at the intersecting road, "and that means six dollars to me. The faster that driver delivers his load and makes another trip, the more of those six dollars I'll be getting."

For John Sinclair Cline, a prosperous attorney in the heart of poverty-stricken Appalachia, those six-dollars-a-truckload returns have been coming faster and faster in recent years. For Cline is a member of one of the small band of financiers who are reaping golden profits from the investment nobody knows about: coal royalties, which come from leasing mineral-rich lands to mining companies.

For the past two or three years, no other fuel has burned quite as brightly as coal. Aided by cost-cutting machinery that has enabled it to compete in the utility market against natural gas and oil (most utilities can quickly switch from one fuel to another, depending on the price) coal has scored an amazing comeback. From 410 million tons as recently as 1959, its output had climbed to an estimated 480 million tons last year and will probably hit 487 million tons during 1965.

And at least one-third of that output will come from the lands held by the coal lessors. By the estimate of no less an authority than F. Addison Jones, a specialist in the National Resources branch of the Internal Revenue Service's Special Technical Services Division, there may be as few as 400 to 500 of them. But by profession, he goes on, the 400 owners of coal royalties include insurance agents, farmers and corporation executives, as well as fairly large corporations and a few good-sized partnerships.

For all their small numbers, moreover, the coal royalists hold what may well be one of the most lucrative investments in all of America. Certainly it is not too much to say that its benefits begin right at the tax collector's door. Almost hidden in the federal tax code, a special provision gives capital gains treatment to royalties received from the mining of coal lands that have been held for the usual six months or more.

But like the seam of coal above ground, that is only the beginning of the wealth. Not only does the coal royalist get capital gains treatment, he also is blessed with the benefits of a cost depletion allowance. This is based on the original cost of the property. If the coal royalist paid $5,000 for his land and it holds 50,000 tons of coal, then the royalty income at the average 25 cents a ton would come to $500 for a typical 2,000-ton mining year.

When it comes to paying taxes on that $500, the coal royalist first takes out a depletion allowance of $200. Then, from the remaining taxable income of $300 he computes his tax at the 25% capital gains rate. Final tax: $75, giving him a return after taxes of 85% on his total income of $500.

THE TALK IN PIKEVILLE

The men who pay this tax readily admit that it is the capital gains provision that has put the crown back on King Coal as an investment. Talk, for example, to Rolla D. Campbell, who is president of the Coal Lessors Association, the trade association for many coal-land owners. Grey-haired and thin, but still vigorous for all his 68 years, Campbell today winters in Palm Beach, in a plush apartment whose glass walls slide back to reveal a breathtaking view of the inland waterway and Palm Beach basin with its famed millionaire's row of luxury yachts.

In 1951 he was the man, according to talk in Pikeville, Kentucky, who was most responsible for convincing Congress that coal royalties deserved a capital gains. "Without that change," says Campbell, "I seriously question whether there could have been as extensive a coal industry development in the past decade as has been the case."

Certainly, few coal royalists can complain. John Cline, for example, qualifies as a medium-sized owner, holding several thousand acres of coal land around the Cumberland plateau in Pike County. A good-sized chunk of it is leased to several small, independent mining companies, which have some fifteen to seventeen mines

producing about 150 tons or more a day. Elsewhere on this same land, Cline has leased several thousand acres to natural-gas drillers, whose diggings throw off still more income.

How much is all this worth to Cline? According to one authoritative source in Pikeville, a monthly revenue in the low six figures rolls into the estate that Cline shares with two sisters. Cline himself admits, without any exact figures, that it has made him a wealthy man. Says he, grinning: "The rich get richer, et cetera."

A clearer picture can be gleaned from a publicly held company, which must report revenues, taxes and profits. Virginia Coal & Iron Co. of Philadelphia, for example (*see box, page 43*), leases huge coal-land acreage to operators on a royalty basis. Last year it pulled in a phenomenal $1.5 million in profits on a net income of $1.7 million. Or consider the fortunes of Kentucky River Coal Corp. of Lexington. The company, which owns about 200,000 acres of coal fields in five Kentucky counties and derives most of its income from royalties, in 1963 paid out $640,414 in dividends, nearly one-half of its $1.4 million in sales.

The low tax rate, of course, makes huge profits possible. Moreover, mining too enjoys a similarly profitable tax treatment. As Howard H. Frey, assistant to the president of the Virginia Coal & Iron Co., notes: "The effective tax rate on a mining operation is 24% because there is a percentage depletion of 10% of sales or 50% of profit. Since the margin on coal is so thin, you never get above that 30%. So you have the taxable profit, deplete it 50% and apply the 48% corporate rate, which is, in effect, 24%."

This is not, of course, as simple as it sounds. First of all, there is the matter of finding the right property. The market, it must be said, is a pretty active one, although its major media are word-of-mouth advertising and the columns of coal trade journals. In the past, one channel that enriched many investors (John Cline's father was one) was the tax auction where land was sold off to repay debts.

As to the price of coal lands, this necessarily varies so widely that no average market value is ever struck. As one Virginia owner puts it: "There are so many factors present that each parcel of land is appraised individually."

A few of the more significant factors: the quality of the coal underground, the thickness of the coal seam (it can vary widely), the conditions under which it can be mined (deep underground or near the surface), proximity to transportation. Even the suitability of the surface land for farming or the amount of timber standing must be considered, since either can represent added values to the land.

Charles D. Roberts, part owner of Dixie Mining Co. in Pikeville, points out that 100 acres of coal land in some parts of Pike County might be purchased for $25,000. And that acreage, the notes, could hold a potential return to the investor of $100,000—provided that he usual risks, such as coal running out or hitting a wall of blank rock, do not arise.

But before he goes into this highly specialized investment, a perceptive buyer has to have all his wits about him. As Rolla Campbell says: "Those who engage in this occupation have to know their way about. They need competent engineers and lawyers and may have to wait a long time to get their original investment back."

A Kentucky owner points out another pitfall. "This is," he says, "a great business for lawsuits." By way of proof he notes that Pikeville, whose population runs to a mere 6,000, has no less than thirty attorneys working full-time on mineral severance cases. Their chore is to separate the various mineral properties within any one parcel of land for whatever disposal the owner has in mind.

Things being what they are in Kentucky, title to a land tract does not always include the mineral rights. In fact, Dixie Mining paid one small owner over $2,700 in royalties before discovering that he did not hold the mineral rights to the property at all. "We had to then go out and pay that $2,700 all over again to the rightful owner," says Dixie's Charles D. Roberts.

Further complications can come from what can only be called an embarrassment of riches. A characteristic of coal land, for instance, is its proximity to oil and gas deposits. Leasing each of these various properties to operators (as Cline, Virginia Coal & Iron and most owners do) may be a very valuable and profitable enterprise. It also, though, requires astute engineering and legal counsel to insure that all those properties belong to the same deed.

Any timber growing over the coal, of course, is a prime investment in its own right ("Executive Sideline: Timber," DUN'S REVIEW, *January*). For it, too, comes under the capital gains treatment, the theory being that he who fells a tree also cuts down a capital asset. But that is not all. Like coal, the timber

owner also can deduct from his pretax income the original cost of the timber he sells. So it is not at all surprising that the Virginia Coal & Iron Co., for one, actively participates in both the coal and stumpage business.

Once the land is bought by an investor, there is very little to do except wait for an operator to come along. And despite a sometimes lengthy wait, they do come. It is one of the quirks of this business that all the vaunted power of advertising notwithstanding, there is little, if any, done by prospective lessors. For coal is an old, old business. And as Rollin Campbell points out: "The people in this business know the areas where the quality of coal they want is located. When they need that particular quality, they send their agents along to find out who the owners are."

For the average land owner, this is the moment of truth. The drawing up of a lease is far more than signing a contract for 100 acres at 25 cents a ton. In the first place, there are hardly two coal land leases alike anywhere. Terms vary from one to another and are the product of negotiations over length of lease, rate of royalty, mining conditions etc. Virtually every last chunk must be taken from the mine, every lump that can be physically removed and sold. No mere miser's greed, this stipulation actually is the legal basis on which the capital gains treatment rests.

A relatively typical ingredient in leases calls for payment to the lessor of a minimum advance royalty. For most of the small, independent, non-union coal mines that abound in some of the major coal fields of the United States, this averages out at $5 an acre, says Robert Holcomb, president of the National Independent Coal Operators Association. Among the large mine operators, this figure varies somewhat. In addition, a flat figure, based on expected tonnage, is sometimes used. Consolidated Coal Co., for instance, pays an annual minimum of $60,000, an acre on property leased from Virginia Coal & Iron in Pennsylvania.

But the lessor in every case allows the operator to recover this investment by amortizing the amount as he mines the coal. Thus, if the operator paid the advance royalty of $5 an acre for 100 acres, he would take the first 2,000 tons free. Usually the time allowed for recovering is one to two years. This though, is no eleemosynary act on the part of the local owner. Says Robert Holcomb: "It's to prevent an operator from typing up large tracts of land and not mining them."

No less important to the lessor is the kind of operator he is going to be dealing with as a lessee. Because a coal mining operation is an enterprise that usually goes on for years, and because of the great value of the property to the owner, amicable relations are considered an essential part of this business.

One method frequently used to preserve such relations is to write into the contract an arbitration clause for any possible arguments or grievances that cannot be settled simply. Many leases call for the appointment of an arbiter by each side.

SMALL, BUT EFFICIENT

Amicable relations notwithstanding, many land owners in recent years have selected operators strictly by size. Reason: Operators with fourteen or more men working underground are regarded under the Federal Mine Safety Act as large operators and must comply with stiff and costly safety regulations. Many land owners complain that the United Mine Workers of America has been using this law to drive costs up and make mining by large operators uneconomical. Says L. (for "Latelle") M. LaFollette, a large land owner in Charleston, West Virginia, who has been leasing coal lands since 1928 ("My father started in it in 1902"): "They're compelling land owners in West Virginia to lease to small operators."

These small, independent operators not only are exempted from federal mine safety regulations, they also tend to be non-union. Not surprisingly, they have been growing at an astounding rate in West Virginia ("Six hundred two years ago, 1,800 last year," says LaFollette), eastern Kentucky, Virginia, Tennessee and some ten other states.

John Cline, who leases to both large and small operators, prefers the small operator because you can usually reason with them," he declares. "The large operators are always trying to grab their own advantage, and you have to deal with them at arm's length. They may mine 100,000 tons this month but none next month. The small operators, on the other hand, mine continuously and usually take out more coal."

The small mines do, in fact, take out an enormous amount of coal. According to President Robert Holcomb of the National Independent Coal Operators

Association, some 100 million–125 million tons were produced by the association's 5,000 member companies in 1964. What's more, says Holcomb, "99% of those members are mining leased properties."

Not only that, they are mining them just as profitably as the big company, according to L. M. LaFollette. "A friend of mine," he notes, "just opened a mine around here with five men and a shuttle buggy. He had to go back about 300 feet to get the mine ready, but they pulled out 259 tons in one day. That's as good as any big company."

Whatever the choice, the land owner need hardly be pushed into finding an operator for his property. Although there are taxes and other similar expenses, they are comparatively low and can be deducted from an owner's ordinary income for tax purposes.

Once a leasing arrangement has been entered into, though, the costs tend to be scattered, but small, mostly for administration and supervision of the contract and for preserving what the Internal Revenue Service's legalistic language refers to as the owner's "economic interest" in the land. These costs may run from fire protection, bookkeeping and technical supervision to the expenses of measuring the quantity of coal removed.

Even though these expenses cannot be considered as deductions from ordinary income, they are hardly onerous. They may, says the tax law, be recouped as offsets against royalty income. In effect, then, the capital gains tax is reduced still further. "When the land is productive," says Rolla Campbell, "anyone can carry it."

How much money is there in these royalties? The question brings smiles to some faces, a look of frustration to others. There is no one answer. So many factors are involved—from the amount of acreage leased and the quality of coal mined to the particular marketing conditions of the time—that figures are illusory and elusive.

Still, a look at the earnings of the publicly held companies shows that the profit potential is an enormous one. And as John Cline admits: "My income has increased every year that I've been leasing. If the royalties keep going up, the profit is bound to be better."

Looking ahead, the general economic picture, as much as the favorable tax situation, suggests that those profits are indeed bound to get better. The fortunes of the coal-land owner are inextricably bound up with those of the operator and the industry at large. What all see are constantly expanding markets (the electric utility field, coal's largest outlet, is growing at an annual rate of about 7%) and exotic new and broader uses for the ancient mineral, such as conversion to gasoline.

Last year the highly respected Pierre R. Bretey, a senior vice president of Wall Street's Hayden, Stone, predicted that "coal consumption may well double over the next fifteen years." And McGraw-Hill's Department of Economics revealed that current coal mine capacity (about 550 million tons) will reach full utilization by the end of this decade and will have to increase by at least 300 million tons by 1975.

Adding still more cheer is the estimate of the U.S. Department of the Interior that lying within the bowels of the United States is the world's largest deposit of recoverable coal, some 830 billion tons. Moreover, the Federal Power Commission late last year estimated that the consumption of coal by the electric utility industry alone would soar 250% by 1980.

With such tremendous potential lying beneath their feet, coal-land investors can hardly be blamed for keeping a tight rein on hard facts and figures. From the looks of things, nothing but the discovery of plutonium on their properties could match the riches that the black diamond may yet produce. Indeed, unless plutonium had capital gains and depletion, it is likely that King Coal would stay exactly that—at least in the minds of the land royalty holders.

—THOMAS I. MURRAY.

AMERICA'S MOST PROFITABLE COMPANY?

From plain, green-painted offices in Philadelphia's South Broad Street, tall, tweedy Edward B. Leisenring Jr. runs what may well be the most profitable company in all of American industry. Certainly few other companies can come close to the 61% margin that Leisenring's Virginia Coal & Iron Co. shows on its revenues. By way of comparison, mighty General Motors brings 10.2% of its sales dollars down to net. AT&T 15.5% and U.S. Steel 5.7%.

Though it has large holdings of railroad stocks, Virginia Coal & Iron obtains 54% of its income from coal royalties (*see story*), and stumpage (the highly profitable, depletion-blessed trees that grow in the soil over its diggings). All told, Virginia Coal leases out 10,000 acres of land in West Virginia, 100,000 acres in Kentucky and southwestern Virginia and 5,000 acres in western Pennsylvania. In West Virginia alone, its lands are estimated to hold 116.9 million tons of coal.

Leisenring carries nearly all the income from these activities right down to net. During 1964, for example, royalties, dividends and rental on a coke plant gave Virginia Coal & Iron a total income of $2.5 million. From that came expenses of $745,875, hardly enough to pay the salaries of three steel executives. Thanks to depletion and capital gains, taxes took out $221,139—leaving net earnings of $1.5 million, or 61% of Virginia Coal & Iron's total income.

Even that, though, does not accurately sum up the wealth that was accumulated for the company's shareholders. Earnings were further bolstered by a gain on the sale of coal in place of $101,538. So earnings, all told, came to $1.6 million, or $3.45 a share, up from $1.3 million, or $2.81 a share, for 1963.

There is, of course, no secret to the source of Virginia Coal's wealth. As a lessor of land to coal mining companies, the company has few expenses of its own. "Only real-estate taxes, really," says Howard H. Frey, assistant to the president. "We do have occasions when we're proving additional coal, and we test a land's deposits by boring or core drilling to about 150 feet."

But that is really the only large expense. The mining company does the rest. "You depend on the honorableness of your lessee," says Frey, "so you've got to deal with people you can trust." He adds: "In a case where the lessee leaves more coal than he could have recovered, we charge him on an estimated basis."

Logging the company's woodlands also involves little labor or expenses on the part of Virginia Coal. For this, too, is done by outside contractors. In Virginia, for example, the Hamer Lumber Corp. cruises its properties and takes off the hardwood for a minimum royalty of $60,000 a year. With perpetual care now the vogue in forestry, moreover, Virginia can count on getting its hardwoods harvested again in forty years, no great amount of time in terms of corporate history.

Lessees also work Virginia Coal's properties for gas, an unheard-of commodity years ago when some of the lands were sold to the company for pennies an acre. Where gas is present, it is true, the coal miner must leave a certain amount of coal in the ground as a casing. But since gas comes under roughly the same tax laws as coal, but with even more favorable economics, this is no hardship at all.

As if all that were not enough, there also is the matter of Virginia's bulging stock portfolio. Obtained largely by the sales of its own railroad that once ran across its lands, it now holds no less than 275,000 shares of common stock in the Southern Railway, probably one of the best-managed rails in all the land. These holdings pay Virginia about $770,000 in dividends a year. Yet even that is hardly calculated to add to the company's tax burden, for under the Internal Revenue laws, 85% of the dividends paid by one corporation to another are tax-free.

And, of course, in none of its lines does Virginia Coal & Iron come anywhere near to what might be called a businessman's risk. For all the company's mining, and all the chance-taking, is done by other companies who hope to find oil, gas or coal (there is also some limestone and some sandstone) on the Virginia Coal & Iron lands. "When you lease," say Howard Frey, "the operator takes the risk of putting up a cleaning plant and tippler, and we take the depletion deduction. It's the widows and orphans versus the prospectors."

And for the purdent, tax-wise Philadelphians who run Virginia Coal & Iron, events have proven that it is always better to be on the side of the widows and orphans.

TO THE BOARD OF EQUALIZATION OF THE STATE OF TENNESSEE

(In Re Assessment of Coal Reserves and Mining Equipment)

MR. FRED JONES, MR. & MRS. DOYLE BURNS, MISS MARIE CIRILLO, MRS. VERCIE NORTON, MR. MILLARD RIDENOUR, MR. JAMES S. HATMAKER, MR. CLARENCE HACKLER, MR. J. W. BRADLEY, MR. RONNIE H. BECK, MR. BILL E. CHRISTOPHER, MR. SHERMAN FETTERMAN, MR. CEDRIC JURGEN, PETITIONERS, EX PARTE

PETITION

1. Each of your petitioners, whose names, addresses and counties of residence and occupations are set out below, is an owner of real property taxed in his respective county:

Mr. Fred Jones, Briceville, Tenn., Anderson, Machinist.

Mr. and Mrs. Doyle Burns, White Oak, Tenn., Campbell, Superintendent, Machine Shop and Machine Operator.

Miss Marie Cirilo, Clairfield, Tenn., Campbell, Community Development.

Mrs. Vercie Norton, Duff, Tenn., Campbell, Textile.

Mr. Millard Ridenour, White Oak Tenn., Campbell, Miner, retired.

Mr. James S. Hatmaker, Eagan, Tenn., Claiborne, Equipment Operator.

Mr. Clarence Hackler, Clairfield, Tenn., Claiborne, Truck Driver.

Mr. J. W. Bradley Petros, Tenn., Morgan, Electrician.

Mr. Ronnie H. Beck, Coalfield, Tenn., Morgan, Instrument Mechanic.

Mr. Bill E. Christopher, Petros, Tenn., Morgan, Instrument Mechanic.

Mr. Sherman Fetterman, Oneida Tenn. Scott, College Student.

Mr. Cedric Jurgens, Oneida, Tenn, Scott, Marine Officer retired.

2. This petition is filed under Tennessee Code § 67-821 granting to any property owner in the State of Tennessee "the right to a hearing and determination by the State Board of Equalization of any complaint he may make on grounds that other property than his own has been assessed at less than the actual cash value thereof, or at a less percentage of value than his own property." The general purpose of this petition is to request the State Board of Equalization and the Comptroller and the Division of Property Assessments which operates under the supervision of the Comptroller and the State Board of Equalization to exercise certain duties respecting the appraisal and assessment of real property containing coal reserves and personal property in the form of mining equipment in the aforesaid five counties as required by Tennessee Code § 67-242 and § 67-245 and § 67-822 establishing the procedures by which these agencies shall "supervise and direct all reappraisals and revaluation programs" and "shall equalize, compute and fix the value of all such properties within its jurisdiction."

3. County tax assessors in the aforesaid counties have failed properly to assess the value of coal in land in the aforesaid five counties or the value of expensive equipment used in mining coal despite the requirements of the due process and equal protective clauses of the Federal constitution and Article 2, §§ 28 and 29 of the Tennessee constitution requiring the taxation of all real and personal property "according to its value . . . so that taxes shall be equal and uniform throughout the state," and the provisions of Tennessee Code §§ 67-605, 67-606(5) and 67-607 requiring county tax assessors to assess for taxation mineral interests including coal. This failure has caused a significant loss of revenue for the local governments in these counties and caused your petitioners and other owners of property not containing mineral interests to bear an unfair percentage of the property tax burden. The time has come for the State Board of Equalization to deal with this problem and to exercise its powers as the statewide administrative agency in charge of directing the activities of local tax assessors.

4. The Tennessee Department of Geology, supported by information from the United States Bureau of Mines and the Tennessee Valley Authority, reports that these five counties in the year 1970 accounted for approximately 6 million tons of 77% of Tennessee's coal production. Not less than 660,000,000 tons of recoverable coal reserves remain in the land of these five counties. This coal wealth is controlled by a few large coal companies and landowners with four companies owning more than 55,000 acres each. These few large landowners control almost all of the land within the coal fields in these counties. Of the 1,480,160 acres which constitute the area in these five counties, 504,440 are owned by large land companies. Out of a total property valuation of approximately $400,000,000, these companies which own over 33-1/3% of the land make up less than 4% of the assessment figure because the coal interest is not being valued in the assessments as required by law. Most of the companies are not local, and as a result of the failure to assess and tax this coal wealth in any form whatever at the local or state level the economic benefits of the coal accrue primarily to large outside interests with little benefit to the local population. Six million tons a year are being trucked or shipped by rail out of these counties which are getting nothing

in return for giving up their resources. The small landowner, farmer, homeowner and businessman, who can least afford to pay, has to pay more because the large landowner who controls most of the wealth in the counties is not paying.

5. The state reassessment and reappraisal program initiated by the Tennessee General Assembly in 1967 vests supervision of the program in the State Board of Equalization and the Division of Property Assessments under its control under Tennessee Code § 67-1706, providing for technical assistance contracts with reappraisal experts, and §§ 67-242, 67-605 and 67-822 providing for the duties of the State Board of Equalization under the reappraisal and reassessment program; and the State Board of Equalization is required to see that coal lands and mineral interests are properly valued and assessed. The reappraisal contracts entered into by the five counties aforesaid under the direction of the State Board of Equalization, however, not only do not provide for the appraisal and assessment of coal interests but specifically exclude the reappraisal and assessment of such interests. This special treatment of coal wealth and mining equipment violates the equal protection and due process clauses of the federal constitution, the uniformity requirement of the Tennessee constitution and numerous Tennessee statutes requiring uniform property tax assessment and § 67-606(5) specifically requiring the assessment of minerals including coal. Moreover, under Tennessee Code § 67-242 the Sate Board of Equalization is required to provide official assessment manuals to local tax assessors for determining assessments of particular classes and parcels of property. Such manuals do not, however, give directions and specify procedures for the valuation of mineral interests including coal and mining equipment in the counties aforesaid, and valuation procedures relating to coal have not been observed by local tax assessors. In addition no agency of state or local government has made use of the professional assistance of the Chief Mine Inspector of the State and the State Geologist in valuing coal wealth and mining equipment as provided in § 67-607 of the Tennessee Code, a necessary step for properly determining the location and value of coal reserves and developing a fair method of assessment.

6. In summary it is the petitioners' position that it is the duty of the State Board of Equalization under Tennessee Code § 67-822 and other sections heretofore cited to direct the equalization of values of property throughout the state and require the proper assessment of coal wealth and mining equipment. Petitioners recognize that devising a fair procedure for assessing the values is a difficult task and that any formula must take into account (1) the fact that the coal industry performs a vital and necessary function in our society and is entitled to a fair return on its investment, (2) placing an unreasonable tax burden on the industry will be detrimental to the interests of coal miners and other employees in the area, and (3) the fact that ecological factors must be considered, so that hasty extraction by strip mining of coal will not be further encouraged. These considerations do not, however, provide an argument that coal values should not be assessed and taxed at all or only at an unreasonably low rate, as is presently the case; and it is the State Equalization Board's duty now to undertake to correct present inequities in the tax structure relating to coal. The failure to exercise such duty will perpetuate the existing unjust situation in these counties where petitioners and others least able to pay bear an unreasonable tax burden and will violate the federal and state constituitons and state statutes, cited above, which require equal and uniform tax valuation and the assessment of coal wealth and mining equipment.

Wherefore, petitioners seek the following relief:

1. That the Governor, as Chairman of the State Board of Equalization, convene a special session pursuant to Tennessee Code § 67-202 or at a regular session not later than October 15, 1971, set this petition for hearing for the purpose of enabling complainants to prove their allegations.

2. That the State Board of Equalization order and effectuate the valuation and assessment of coal reserves and mining equipment in the above mentioned counties on the same basis and at the same ratio of fair market value as other property is assessed.

3. That the State Board of Equalization and the Division of Property Assessments under its jurisdiction provide assistance, manpower and guidance to county tax assessors and county boards of equalization to carry out mineral and mining equipment valuation as aforesaid and provide specific direction in manuals written for such local officials as to the method and techniques of valuing such assets.

4. That the State Board of Equalization call upon the State Department of Geology and the Chief Mine Inspector to assist to the end that such value of such mineral interest be accurately assessed.

GULLETT, STEELE, SANFORD,
ROBINS & MERRITT,
GILBERT S. MERRITT,
Attorneys for Petitioners.

Approved by petitioners:

Mr. Fred Jones, Mr. Doyle Burns, Mrs. Doyle Burns, Miss Marie Cirillo, Mrs. Vercie Norton, Mr. Millard Ridenour, Mr. James S. Hatmaker, Mr. Clarence Hackler, Mr. J. W. Bradley, Mr. Ronnie H. Beck, Mr. Bill E. Christopher, Mr. Sherman Fetterman, Mr. Cedric Jurgens.

CERTIFICATE OF SERVICE

I certify that this petition and 10 copies thereof have been delivered and filed this 16th day of September, 1971, with the office of the Comptroller of the State of Tennessee, who acts as the Executive Secretary of the State Board of Equalization and agent for the service of administrative documents and process.

GILBERT S. MERRITT.

Citizens from Tennessee's five largest coal-producing counties today filed a complaint with the State Board of Equalization charging that local tax assessors and the State Board of Equalization now directed by Mr. Freeley Cook, have violated the requirements of state law, the Tennessee state Constitution, and the United States Constitution, by failing to tax the vast coal resources in these counties. As a result, the citizens charged in their complaint, their counties are losing several hundred thousand dollars yearly in property tax revenues, a significant loss of needed revenues for these rural Tennessee counties. Furthermore, the citizens said, the small, non-mineral owner has been forced to bear an unfair burden for local services like education and health care because the mineral holders are not paying their fair share of taxes on the coal wealth which they control.

The complaint filed by these citizens today represents one of the most significant recent citizen challenges to the large mining interests that have exploited the resources of the Appalachian region of the U.S. for years, leaving behind ruined lands and widespread poverty. It comes at a time when coal field owners in the Appalachian region are making extraordinary profits from mining activities, and when coal production. including extensive strip mining, is at an all-time high.

The complainants, all residents of the Appalachian areas of Anderson, Campbell, Claiborne, Morgan, and Scott counties in Tennessee, include two young miners recently fired for signing UMW union cards, several working men employed in Oak Ridge plants, a former county weight inspector who quit his job in protest against the failure to prosecute overweight coal trucks, a local college student, a community worker, and several local women. The citizens call upon Tennessee Governor Winfield Dunn as chairman of the State Board of Equalization to set a date before October 15 for a hearing on their complaint and to take appropriate action to make sure minerals are taxed as required by law.

The five counties in which these citizens reside accounted for approximately 6 million tons of coal, or 77 percent of Tennessee's total coal production, in 1970. Nevertheless, these counties are among the poorest in the Nation, with per capita incomes less than half the United States average.

One important reason for the local poverty, the citizens pointed out, is that virtually all of the coal wealth is controlled by a few, large, outside corporations which reap handsome profits on royalties from coal operations, yet escape local taxation, in violation of state law, because the coal has not been assessed as part of property value. Although these large companies own over 33⅓ percent of the land area of these five counties, they accounted for less than 4 percent of the property tax revenue in 1970.

One example of how this works is provided by the American Association, a British-based corporation that owns more than 44,000 acres of rich, coal-bearing property in the coal field of Claiborne County. Although the American Association earns an average of $4,500 a week (or $234,000 a year) in royalties from only one of the mines on its Claiborne County land, its property is valued at only $20–25 per acre, the same value used for unused wood land in the county, and less than ¼ the value used for farm land.

The following is a list of the large land owners that control the coal fields in these five counties yet escape taxation:

Coal Creek Mining and Manufacturing Company, along with its affiliates Poplar Creek Coal and Iron Company and Winters Gap Coal Company owns 64,199 acres in Anderson, Campbell, Morgan, and Scott Counties. The company is controlled by 165 shareholders throughout the United States.

Tennessee Land and Mining Company, a family trust, managed by E. L. Spetnagel of New Preston, Connecticut owns 50,940 acres in Anderson, Campbell, Morgan, and Scott Counties.

Koppers Company, a multimillion dollar Pittsburgh Corporation, controls 50,771 acres in Campbell and Scott Counties. Tennessee Valley Authority owns the mineral rights beneath.

American Association, a British limited corporation owned by the London Foreign and Colonial Securities, Limited owns 50,661 acres in Claiborne and Campbell Counties.

Ford, Faust, and Cheely, a family trust of Knoxville, Tennessee owns 37,206 acres in Morgan and Scott Counties.

Payne-Baker lands, managed by U.S. Senator Howard Baker, whose mother owns one-ninth interest. The rest is owned by the Paynes of Pennsylvania, relatives of Mrs. Baker. Together they own 37,206 acres in Morgan and Scott Counties.

Stearns Coal and Lumber, owned by a family from Stearns, Kentucky retains 26,390 acres in Scott County.

Francis Brothers, the only locally owner land among the largest company holdings is owned by a family in LaFollette, Tennessee. They own 23,676 acres in Campbell County.

Blue Diamond Coal Company which has been a coal owner and operator for many years throughout Appalachia is headquartered in Knoxville, and owns 20,131 acres in Campbell, Claiborne, and Scott County.

Other major land of the area owners include Consolidation Coal, a subsidiary of Continental Oil, and Hiwassee Land Company, a subsidiary of London's Bowater Paper Company. These landowners own over ¾ of the mineral wealth of the five county area, and accounted for 80% of the land scheduled for strip mining since the spring of 1970.

All of the companies enjoy ample returns on their coal properties in these counties, yet the coal in these lands is in no way being taxed. Tennessee does not have a severence tax, by state law *does require taxing minerals as part of property value*. However, the complaint pointed out, local assessors and the State Equalization Board have failed to comply with the law and have systematically excluded minerals from property value for tax purposes. As a result, the complaint argues:

Six million tons a year are being trucked or shipped by rail out of these counties which are getting nothing in return for giving up their resources. The small landowner, farmer, homeowner, and businessman, who can least afford to pay, has to pay more because the large landowner who controls most of the wealth in the counties is not paying.

According to a conservative estimate, using present tax rates and established methods for coal valuation, the failure to assess the coal reserves in these five counties resulted in a revenue loss of approximately $350,000 in 1970 alone. Since not less than 660 million tons of recoverable coal reserves remain in the land of these counties, this loss of revenue will continue in the future unless coal is included in the tax base as required by law.

In addition, the citizens charged, several millions of dollars worth of mining equipment has been appraised only nominally, or not at all, depriving local governments of additional revenues in violation of the law.

The complaint was based on extensive research conducted during the summer of 1971 by three Vanderbilt University students with the assistance of a Vanderbilt professor. It was filed on behalf of the East Tennessee citizens by their attorney, Mr. Gilbert Merritt, of the Nashville law firm of Gullett, Steele, Stanford, Robinson, and Merritt.

More specifically, the complainants maintain, the failure to appraise minerals is in violation of:

Due process and equal protection clauses of the Federal Constitution.

The Tennessee Constitution, [Article 2 § 28 and 29] which requires the taxation of all real property "according to its value."

And Tennessee statutes [Tennessee Codes §§ 67–605, 67–606(5) and 67–607] requiring county tax assessors and the State Board of Equalization to assess mineral interests.

In 1967, the Tennessee General Assembly made provisions for a reappraisal of "all real property" in the state and vested responsibility for this reassessment in the hands of the State Board of Equalization and its Division of Property Assessment.

However, the citizens' complaint and supporting research point out that despite the intent and letter of the law, the State Board of Equalization failed to carry out its responsibilities in several ways:

1. In contracts entered into with the counties under the direction of the State Board, the appraisal companies were not instructed to appraise mineral value—in fact, the contracts specifically *excluded* such mineral value.

2. Although Tennessee law (Sections 67–607 of the Tennessee Code) instructs the Board of Equalization to make use of the professional advice of the Chief Mine Inspector and the State Geologist in assessing minerals, the Board has failed to avail itself of these services—in fact, Mr. Freeley Cook, Executive Secretary of the State Board is quoted as saying "You mean that law is still on the books?"

3. Although the Board of Equalization is required by law (Section 67–242) to provide official assessment manuals to local tax assessors, the manuals have failed to give directions for valuation of mineral property—or, if directions have been given, they have not been observed by local tax assessors in the valuation of coal.

4. As a result, the counties have lost an immense amount of much-needed revenue while primarily outside landholders generously benefit.

To correct this situation, the citizens called upon Governor Winfield Dunn and the State Board of Equalization to:

1. Set a date before October 15, 1971 for a hearing on their complaint.

2. Provide for the valuation and assessment of coal reserves and mining equipment so that the coal owners and mining companies will bear their fair share of the property tax burden in each county.

3. Call upon the State Department of Geology and the Chief Mine Inspector to assist to the end that the value of mineral interests may be accurately assessed.

4. And, make provision for assistance to local assessors in valuing minerals in the future.

As one of the complainants said, "My granddaddy paid the taxes and those companies should have paid, my daddy paid them, and now I'm paying. But, now we're going to start changing things."

APPENDIX I

Contracts:
For information:
John Gaventa, 615–322–4614 or 615–424–6832.
Ellen Ormond, 615–322–7805.
Professor Lester Salamon, 615–322–2461.

COMPLAINANTS

Name:	Occupation
Anderson County:	
Mr. Fred Jones, Briceville, Tenn	Machinist.
Campbell County:	
Mr. & Mrs. Doyle Burns, White Oak, Tenn.	Supt., Machine Shop & Machine Operator.
Miss Marie Cirillo, Clairfield, Tenn	Community Development.
Mrs. Vercie Norton, Duff, Tenn	Textile.
Mr. Millard Ridenour, White Oak, Tenn.	Miner, retired.
Clairborne County:	
Mr. James S. Hatmaker, Eagan, Tenn.	Equipment Operator.
Mr. Clarence Hackler, Clairfield, Tenn.	Truck Driver.

Name:

Name	Occupation
Morgan County:	
Mr. J. W. Bradley, Petros, Tenn	Electrician.
Mr. Ronnie H. Beck, Coalfield, Tenn	Instrument Mechanic.
Mr. Bill E. Christopher, Petros, Tenn.	Instrument Mechanic.
Scott County:	
Mr. Sherman Fetterman, Oneida, Tenn.	College Student.
Mr. Cedric Jurgens, Oneida, Tenn	Retired Marine Officer.

RESOURCE PERSONNEL

The research and organization was done in the summer of 1971 for the Vanderbilt Student Health Coalition by:

John Gaventa, recent Vanderbilt graduate to be attending Balliol College, Oxford, beginning October 1 on a Rhodes scholarship.

Ellen Ormond, junior philosophy major; Vanderbilt University.

Bob Thompson, recent Vanderbilt graduate beginning at University of Virginia Law School this fall.

Professor Lester Salamon of the Vanderbilt Political Science Department advised on the research and writing.

Heleny Cook, a Sarah Lawrence College student, will remain in the five-county region doing follow-up work. Contact at 615-424-6832.

C. Mr. Gilbert S. Merritt of the Nashville law firm of Gullett, Steele, Sanford, Robinson and Merritt is serving as lawyer for the complaintants. He is a former United States District Attorney for Middle Tennessee.

STATE OFFICIALS

1. Mr. Freely Cook, Executive Secretary, State Board of Equalization, Nashville, Tennessee.
2. Mr. William Snodgrass, Comptroller, State of Tennessee, Tennessee.

LOCAL OFFICIALS

1. Mr. Carl Irwin, Tax Assessor, Anderson County.
2. Mr. J. P. Ayers, Tax Assessor, Campbell County.
3. Mr. John Greer, Tax Assessor, Claiborne County.
4. Mr. Dudley Freels, Tax Assessor, Morgan County.
5. Mr. Frank Phillips, Tax Assessor, Scott County.

"COMPANY" REPRESENTATIVE

1. Coal Creek Mining & Mfg. Co.: Warren Hayden, Bank of Knoxville Building, Knoxville, Tenn.
2. Tennessee Land & Mining Co.: E. L. Spetnagle, New Preston, Connecticut.
3. Koppers Co., Inc.: Parker W. Finney; Manager of Real Estate Service; Pittsburgh, Pennsylvania.
4. American Association: Al E. Funk, Agent, Middlesboro, Ky.
5. Ford, Faust & Chuly: Hugh Faust, Hamilton Bank Building, Knoxville, Tennessee.
6. Payne and Baker: Senator Howard Baker, Huntsville, Tenn.
7. Stearns Coal & Lumber Co.: Baker, Worthington, Crossley and Stansberry, Attorneys, Knoxville, Tenn.
8. Francis Brothers: J. P. Van Huss, Lafollette, Tenn., agent.
9. Blue Diamond Coal Co., Robert Watson, VP for Operations, 6305 Kingston Pike, Knoxville, Tenn.

APPENDIX II

COUNTY DESCRIPTION

The five counties are located north and northwest of Knoxville, Tennessee, in the mountains and foothills of Appalachia. In one sense, they are a "forgotten area" of Appalachia, having received far less national attention than their Kentucky, West Virginia and Pennsylvania counterparts.

Only part of each county is within the mountainous coal region and even within the county these areas often receive less than their full share of services.

The per capita incomes of four of the counties are among the 20 lowest in the state, well below Tennessee's average of $2038:

Morgan County, 7th lowest	$982
Claiborne County, 10th lowest	1,030
Scott County, 15th lowest	1,091
Campbell County, 20th lowest	1,355

Anderson County's $2,479 per capita income is high only because of Oak Ridge and it seems safe to say that the northwestern mountainous part of the county is much more closely kin to the other counties than to Oak Ridge.

APPENDIX III

SUMMARY OF COMPANY OWNERSHIP AND PERCENTAGE OF TAXES

County	Total acreage	Company acreage as percentage of total [1]	Total property appraisal (1970)	Company appraisal as percentage of total (1970)
Anderson	214,400	30	211,097,990	1.05
Campbell	288,640	43	65,226,670	7.33
Claiborne	284,160	17	50,272,000	2.38
Morgan	344,960	38	37,373,620	6.45
Scott	348,160	41	34,963,950	10.5
Total	1,480,160	34	398,680,272	3.6

[1] Most of the company land is in the coal field, and 80 percent of the coal field is owned by 9 companies.

APPENDIX IV

COAL RESERVES AND PRODUCTION

	Recoverable reserves of the 5-county area			
	Measured	Indicated	Inferred	Total
Anderson	44,734,000	43,876,000	38,138,000	128,748,000
Campbell	62,089,000	93,098,000	135,435,000	288,622,000
Claiborne	15,642,000	15,234,000	49,961,000	80,767,000
Morgan	18,732,000	18,732,800	40,094,000	84,641,000
Scott	25,156,000	25,361,000	29,233,000	79,750,000
Total				662,528,000

From "Coal Reserves of Tennessee, 1959," State Division of Geology; repeatedly this report maintained that "It should be emphasized that the estimates in this report should be considered as the *minimum* known recoverable reserves in Tennessee in 1959."

Production of the five-county area, 1970 [1]	*Tons*
Anderson	1,732,557
Campbell	1,563,147
Claiborne	1,893,000
Morgan	452,246
Scott	547,049
Total	6,187,998

[1] Department of Labor report.

COAL RESERVES AND PRODUCTION

An as yet unpublished report of the Tennessee Department of Geology entitled "Strippable Reserves of the Northern Plateau Area of Tennessee" gives this projection for coal production in the five-county area (based on GNP, U.S. population and industrial population):

By 1985 annual coal production is expected to reach 8.8 million tons with strip-mined coal contributing 2.9 million tons. By the year 2000 total annual production will have reached between 15.9 and 20.3 million tons and strip-mined coal between 5.3 and 6.8 million tons. At these rates of production, the available supply of strip-mined coal should last 60 years.

APPENDIX V

COMPANY LANDHOLDERS BY COUNTY AND APPRAISED VALUES

Company	Acreage	1970 appraisal	Value per acre
Anderson County (100 percent appraisal):			
Coal Creek Mining & Mfg	34,093	1,295,280	$37
Tennessee Land & Mining Co	21,428	607,670	32
Poplar Creek Mining & Mfg. (same owners as Coal Creek)	6,759	207,770	31
Consolidation Coal	1,420.5	42,620	30
Total	63,690.5	2,153,340	34
Campbell County (100 percent appraisal):			
Koppers Co	49,400	1,500,000	30
Coal Creek Mining & Mfg	23,676	730,075	31
Tennessee Land & Mining Co	11,170	449,000	40
American Association	6,637	393,550	59
Lindsay Land Co	4,033	264,380	65
Elk Valley Coal	3,638	91,000	25
Westbourne Land Co	2,982	116,000	54
Clear Fork Coal Co	2,249	59,400	26
Blue Diamond Coal Co	2,200	120,425	59
Canyon Enterprises	1,128	14,050	11
Consolidation Coal	813	91,150	110
Northumberland Co	691	35,975	52
Hiwasee Land Co	667	33,100	50
Total	122,927	4,774,405	39
Claiborne County (100 percent appraisal):			
American Association	45,331	1,133,290	25
Clear Fork Mining Co	590	29,400	50
Harris Branch Coal Co	180	6,000	32
Blue Diamond Coal Co	145	2,000	14
Hiwasee Land Co	1,537	32,000	21
Total	47,783	1,202,690	25
Morgan County (30 percent appraisal):			
Coal Creek Mining & Mfg	6,416	64,687	30
Poplar Creek Mining & Mfg	2,437	29,560	36
Ford, Faust & Cheely	37,702	369,216	29
Winters Gap Coal Co	1,372	22,407	48
Tennessee Land & Mining	295	2,450	25
Plateau Properties	[2] 12,040	[3] 129,162	32
Walls Properties	2,048	18,497	27
Hiwaseo Land Co	4,650	43,284	28
Payne & Baker	1,162		
Travelers Insurance	2,913	26,390	39
Northumberland Corp.	627	7,524	36
Total	74,592		
Plus State land	52,017		
Total	126,609		
Scott Country (the reappraisal program has not been completed) (3 Opercent appraisal):			
Payne & Baker	35,935	324,315	27
Stearns Coal & Lumber	26,390	243,280	28
Blue Diamond Coal Co	19,177	173,165	27
Tennessee Land & Mining	17,941	161,460	27
G. C. Pemberton	7,864	34,030	13
Rivermost Farms	7,587	68,275	26
Kyanite Mining Corp	5,000	45,000	27
Russell Land Co	3,257	30,450	28
Northerland Corp	2,612	23,510	27
Oneida Wood Co	2,602	23,610	27
Rugby Land Co	2,499	22,490	27
Swain Lumber Co	2,284	18,043	27
Go-Ray Realty Co	2,273	20,455	27
Ford, Faust & Cheely	1,504	13,535	26
Koppers Co	1,371	12,335	26
Tennessee Wesleyan College	1,266	11,395	27
Bowater Paper Co	1,204	10,835	27
Elk Valley Coal & Iron	1,047	9,510	27
Plateau Land Co	1,055	23,440	67
Meadow Brook Farms	900	10,750	36
Codit Bros	541	24,690	136
University of Tennessee	300	2,700	27
Hiwasee Land Co	101	1,200	35
Total	142,459	1,401,323	30

[1] The value reflects valuation of any improvements and farm land as well as the woodland.
[2] 4,829 minerals.
[3] 6,283 minerals.

THE EFFECT OF HIGHER PRODUCTION TAXES ON THE MINNESOTA TACONITE INDUSTRY

(By Willian V. Morris, Manager, Metals Economics, Stanford Research Institute)

Prepared for: Nemo, Inc. (N.E. Minnesota Organization for Economic Education), Duluth, Minn.
Under a grant from the Jeno F. Paulucci Foundation, Duluth, Minn.

IRON ORE TAXES IN MINNESOTA

As Figure 1 shows, the production volume of iron ore in Minnesota has plummeted since the mid-1950s. The decline is expected to persist, and it is doubtful that the previous peak in total iron ore production will be equaled in the next two decades. Although the extent of economic reserves of natural iron ore products is not known, only a few companies can now profitably mine the remaining reserves. During the 1980s, production is likely to reach very low levels or cease altogether. Thus, the emphasis in this study is on taconite and its future.

This study is not concerned with state and local sales taxes and state and local taxes on lands and buildings (which are paid by producers of natural iron ore products). Natural iron ore is subject to ad valorem, occupation, and royalty taxes. Taconite is subject to production, occupation, royalty, railroad, and excise taxes, although only two of the six producers pay railroad and excise taxes and one producer pays no royalty tax. The impact of declining iron ore production on the related state and local tax revenues delineated above has been severe, as shown in Figure 2. Under the existing tax structure, revenues will continue to decline. Tax revenues from the production of taconite probably cannot bring total state and local iron ore tax revenues above the $20 million to $25 million per year level by 1990. A key factor is that state and local taxes per ton of natural iron products produced are approximately three times as great as those on taconite. A description of the tax structure appears in the body of the report, but for purposes of this section of findings and conclusions it is important to note the following:

In 1970, the taconite industry will probably pay taxes of about $0.33 cents per ton or total revenues of $11 million.

The taconite production tax will account for about $4.4 million in tax revenues, or $0.13 per ton. This is the tax that has the potential to affect future taconite production volume and tax revenues to an important degree.

At present the taconite production tax is widely distributed:

	Percent
Taconite property tax relief fund	47.0
Schools	27.0
Counties	11.5
Municipalities	11.5
State general revenue fund	3.0
Total	100.0

Exactly how revenues might be distributed by the legislature in the event of an increase in the taconite production tax rate is not known to the Institute.

The Existing Tax Burden on Taconite Is Not High on a Comparative Basis

According to information gathered by the study team, total state and local taxes paid per ton of taconite produced are generally comparable to taxes paid on low grade iron ore in other states. On the basis of the mine value, total taxes per ton of taconite are lower than on several minerals produced in volume in other states. Over the years various legislative commissions on taxation of iron ore have analyzed comparative tax information without being able to determine what an equitable tax rate would be for iron ore. Questions regarding equitableness aside, however, it is possible to delineate the likely volume of total taconite production tax revenues that would relate to higher tax rates.

The Range of Possible Production Tax Revenues in the 1971 to 1990 Period Is Wide

The potential range of total tax revenues on all iron ore during the 1971–90 period is illustrated by the shaded area in Figure 3. Factors on which the illustration is based are summarized below.

For all taconite production rates, tax revenues relating to natural iron ore products were held constant at $103 million dollars (100 million tons at $1.03 per ton) during the 1971–90 period.

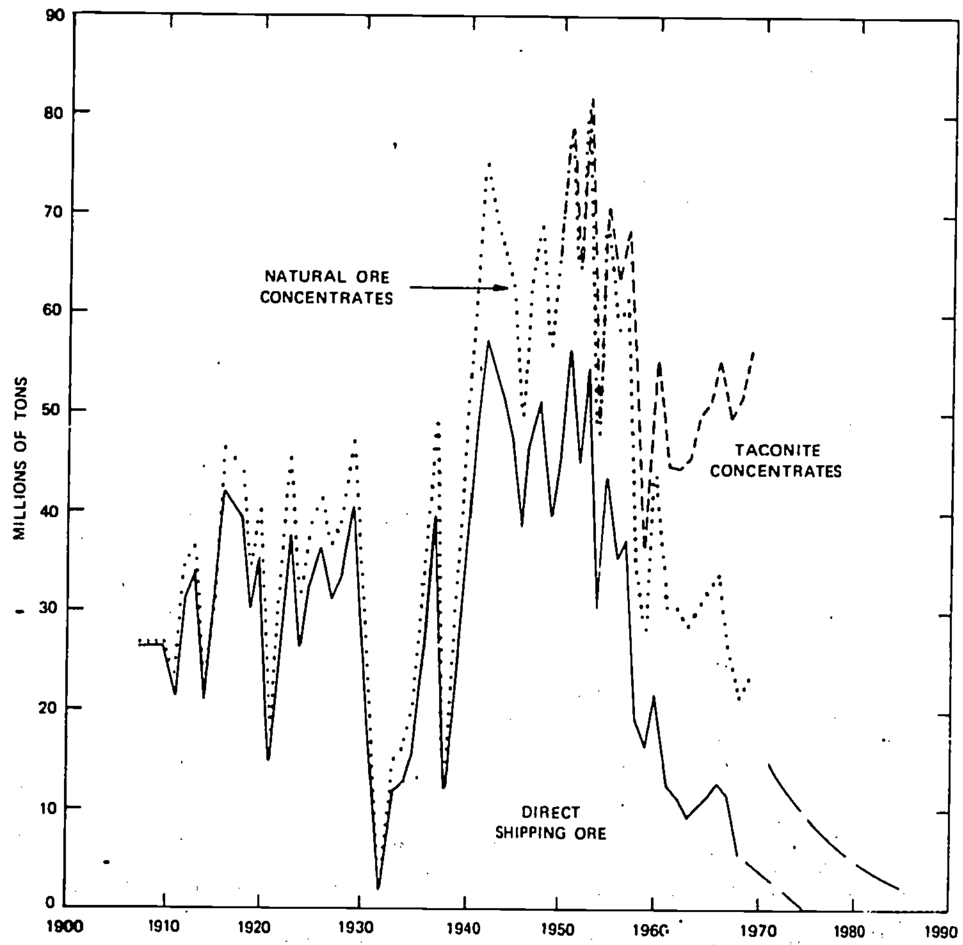

FIGURE 1 MINNESOTA IRON ORE SHIPMENTS

The production volume of taconite probably would not be sensitive to taconite production tax rate increases of $0.25 to $0.50 per ton. The production volume would then be as projected—about 1 billion tons during the 1971–90 period. Tax revenues from taconite production would increase from $299 million with no tax rate increase,* to $531 million with a $0.25 per ton increase, to $778 million with a $0.50 per ton increase. Since there is a possibility that a $0.50 increase could lead to a cessation of industry expansion, the related tax revenues of $718 million are shown ($615 million for taconite plus $103 million for natural iron ore products).

The production volume of taconite might be sensitive to a tax increase of $0.75 per ton, and if no increase in production volume occurred beyond the early 1970s, total iron ore taxes could still total about $909 million during the 1971–90 period ($806 million for taconite plus $103 million for natural iron ore products). However, if tax rates were raised by significant increments in Canada or other countries, the taconite industry might still expand in line with the basic projection. In this case total iron ore tax revenues would total about $1,121 million during the 1971–90 period ($1,018 million for taconite plus $103 million for natural iron ore products).

The production volume of taconite almost certainly would not be expanded if the tax rate were increased by $1.00 per ton. On the other hand, production

*There is a minor adjustment for increases in the wholesale price index included in the present law. Production tax rate increases referred to in this report are over and above the price index adjustment.

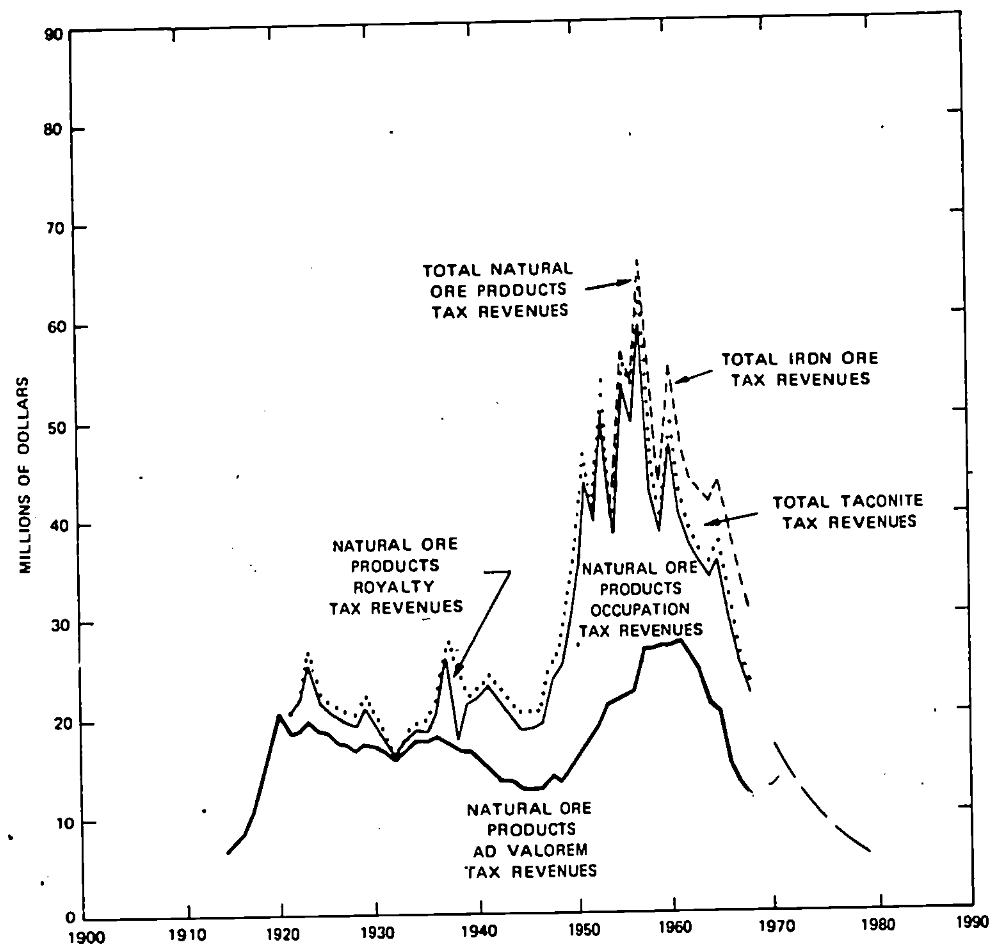

FIGURE 2 MINNESOTA IRON ORE TAX REVENUES

might conceivably remain at about 40 million tons annually* since it might be preferable to keep a taconite plant open rather than invest in an alternative source. However, the $992 million in taconite tax revenues from 40 million tons of annual production to 1990 probably represents the upper limit of possibilities.

The shape of the tax revenue "envelope" in Figure 3 can be relied on less and less as the potential tax rate increase approaches and passes the $0.75 per ton point. Not only could taxes increase elsewhere but also the investment climate could deteriorate abroad to the extent that the relatively lower risk in taconite plant investment might offset the higher costs occasioned by tax increases in Minnesota. On the other hand, the level of taconite production could conceivably be cut back well below 40 million tons a year if one or more plants became uneconomic to operate because of costs of solving pollution problems.

The response of the taconite and steel industries to possible increases in tax rates should be related to the profitability of taconite plants. While the average new taconite plants probably generates an imputed profit of 7%–8% annually on total assets (well above the comparable rate for the steel industry as a whole), the two larger and older plants probably generate only 5% on total assets. A $0.96 per ton increase in taxes on taconite would reduce the imputed profit on assets to 5%–6% on the newer plants and 3% on the older plants, the latter being well below the results of the steel industry (averaging years of relatively good and disappointing performance). The steel companies could not justify

*Industry capacity should reach 40 million tons per year as the result of Minntac's program to add 6 million tons of capacity by 1972.

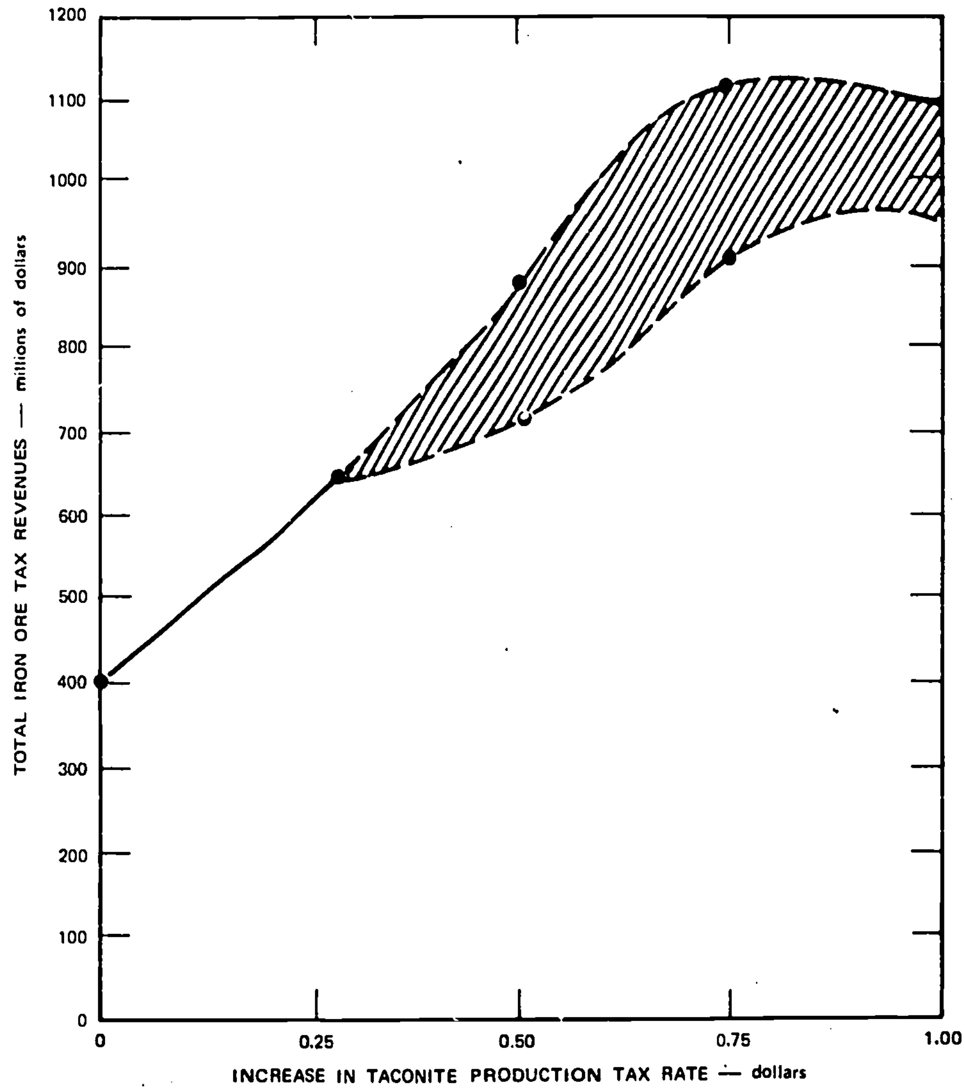

FIGURE 3 RANGE OF TOTAL IRON ORE TAX REVENUES THAT COULD RESULT FROM INCREASED TACONITE PRODUCTION TAX RATES AND RELATED LEVELS OF TACONITE OUTPUT—1971-90 TOTAL

a large increase in steel prices if taconite taxes were raised substantially and if the cost of higher taxes had to come out of profits. However, the independent mining companies might be able to raise prices on the small volume of taconite in which they have an interest.

TACONITE PRODUCTION VOLUME WILL AFFECT WAGES AND SALARIES

The sensitivity of taconite production and total tax revenues to tax rate increases of more than $0.50 per ton is difficult to judge. With a $0.50 per ton increase, there is a good chance that expanded taconite output would yield about $778 million in revenues during the 1971-90 period (excluding revenue from natural iron ore products). With a $0.75 per ton increase and essentially level output, total revenue from taconite might be $806 million, only 3.6% greater. It could also be argued that if the response to any significantly higher tax rate is likely to result in level output, the rate increase might just as well be high enough to maximize revenue. However, there are other considerations relating to

the volume of taconite production—employment and personal income. If taconite production remains essentially level, wages and salaries of all employees directly engaged in the iron ore industry might total about $3 billion in the 1971–90 period. If the total output of natural iron ore products and taconite changes in line with the study projections, wages and salaries could total $3.8 billion in the period. There would also be a multiplier effect on indirect employment and income. However, the optimum benefit to northeast Minnesota and the State as a whole of various rates of increase in taxes and personal income is beyond the scope of this study.

THE MAINE PULP AND PAPER INDUSTRY: STUDY REPORT NO. 1

Timber Taxation in the Company State—By Mark Willis and Spencer With Help From Neal Stillman

Preface

The 10 largest paper companies in Maine own about one-third of the state. They purchase much of the timber grown in the remaining ten million acres of forests. In the woods and in the mills the industry provides more than 25,000 jobs and it produces 25% of the state's manufactured product. According to Commissioner George of the Maine Employment Security Commission, the industry and its supporting services account for as much as 40% of the state economy.

As Maine's largest industry, it is apparent that the paper industry is in a position to have a considerable impact on the public policy of the state. It is the purpose of this study to explore the nature of this impact in matters relating to air pollution, water pollution, land use, labor and taxation.

The study was begun by a team of students from the University of Maine Law School, Columbia Law School, Harvard Law School, and Wellesley College. Since the summer of 1970, their efforts have been supplemented by those of a number of volunteers.

The work was made possible through the financial support of Ralph Nader's Center for Study of Responsive Law, the Maine State Biologists Association, and a large number of private contributors. The results of the study will be released during 1971 in a series of separate reports.

Report No. 1, *Timber Taxation in the Company State*, was written by Mark Willis and Richard Spencer with help from Neal Stillman. It is released here in a preliminary form. It has not been edited or revised by Ralph Nader or the Center. Responsibility for the findings and conclusions rests entirely with the authors.

Summary

Part I—The Undervaluation of the Timberland

The paper companies own outright more than a third of the land area of Maine. Most of their holdings are located in the unorganized territory which is devoted almost exclusively to growing trees. Although these lands represent one of the major sources of wealth in Maine the taxes on these lands are extremely low. According to the 1968 valuation there are eight and a half million taxable acres in the unorganized territory yet the property taxes collected in this area amounted to only $3.2 million dollars. The average tax on the timberland itself was less than 35 cents an acre.

One of the reasons that the taxes are so low is that the timberlands have been grossly underassessed for many years. The land in the Allegash region, for example, was valued for tax purposes at only $14.00 an acre, yet in purchasing the Allegash Wilderness Waterway the State paid prices up to $435.00 an acre. According to the Commissioner of Parks and Recreation the average price was $90.00 an acre but this figure is only accurate if the purchase price is averaged over the water as well as the land. The actual price was closer to $125.00 per acre of *timberland*.

The timberlands are supposed to be assessed at 50% of fair market value but it appears from comparable sales data that they are assessed at less than 30%. As a result the State has been deprived *each year* of more than a million dollars in badly needed tax revenues. The assessments were raised somewhat for the 1970 valuation but the State is still losing more than half a million dollars a year.

The assessing of timberland has been contracted out to the James W. Sewall Company in Old Town since 1932. At the same time that this company does the assessments for the State, however, it relies on the paper companies and large landowners for much of its other business. The Sewall Company has been determining the taxes of its own clients for almost forty years.

Despite this long-standing conflict of interest, the Property Tax Division has never checked the Sewall Company's work. It does not have a qualified forest appraisor on its staff and has had to rely on studies submitted by the Sewall Company to validate its own procedures. These studies have been based on unreliable data and one of them used faulty statistical methods. The failure of the State to supervise the company's work may be related to the fact that the president of the Sewall Company is also the Chairman of the Appropriations Committee in the legislature. It is this Committee which allocates funds to the Bureau of Taxation and other State agencies.

PART II—THE UNFAIRNESS OF PRESENT TAX POLICIES

The undervaluation of the timberlands has not only deprived the State of revenues, it has also created problems of fairness between different classes of taxpayers. It appears, for example, that the permanent residents in the unorganized territory and the property owners in the organized portions of each county have been forced to pay more than their share of the taxes.

The Sewall Company method of valuation also creates inequities between different timberland owners. Although the use of a uniform valuation formula creates the impression that the tax burden is being apportioned fairly, in fact the valuations are quite arbitrary.

In addition the tax structure in the unorganized territory imposes a crushing tax burden on the permanent residents while the paper companies and large landowners have a very light tax burden. The unfairness is magnified by a regressive State tax credit which provides the least proportional relief to the property owners with the highest tax rates.

The tax structure has also encouraged the reliance on Canadian woods labor; it has retarded the growth of the Maine lumber industry; and it will distort the patterns of future recreational development.

PART III—PRESENT USE TAXATION

The problems of timber taxation are complicated by the fact that the value of the land varies with the use to which it is put. Timberland on a lake, for example, might be worth \$50.00 an acre for growing trees and \$5,000 an acre for recreational development. If the land is taxed at its highest and best use, the tax policy often serves as a self-fulfilling prophecy. It becomes necessary to develop it in order to keep up with the taxes. If the State disregards the recreational value, however, the paper companies and large landowners will be able to develop one of the States most valuable resources without paying their share of the taxes.

The solution to this dilemma most commonly proposed in Maine is *present use taxation* with a throwback provision when the use changes. The land would be taxed at its value as timberland until it was developed. When the use changed, a five year tax penalty would be collected to make up for the taxes which had been forgone.

Although this sounds like a reasonable solution, there are a great many problems with it. Present use taxation does not deal with the real cause of execessive development which is not high taxes but the promise of corporate profits. It will not be workable in the unorganized territory because of the inadequate staff of the Property Tax Division and the five year penalty will not make up for the loss of revenues during the period of present use taxation.

The solution to the problem of forced development is not present use taxation, but an effective system of land use controls. A State planning agency could establish a number of land use categories and the land would have to be taxed at its value for the uses which were legally permitted. If the land were zoned as timberland, for example, it would be taxed at its value at that use.

Although the landowners are strong conservationists when it comes to lowering their taxes, their position changes when it comes to land use controls. In the 104th legislature, the paper industry lobbyists gutted the bill which established the Maine Land Use Regulation Commission. In the original bill, the Commission

was to have zoning authority along all *access* roads but this was changed to *public* roads in the final version of the bill. Since virtually all the roads in the unorganized territory are *privately* owned, the Commission is now a fraud on the public with neither the power nor the funds to protect the wilderness. Without an effective Commission, present use taxation will prove to be a disaster for the average Maine taxpayer. The small property owner will see his own taxes increase steadily while the paper companies and large landowners develop one of the States most valuable resources without paying their share of the taxes. Without an effective system of land use controls, present use taxation will set up the State for another multi-million dollar tax loss in the unorganized territory.

PROPERTY TAXES: ARE THEY EQUITABLE?

HON. KEN HECHLER OF WEST VIRGINIA—IN THE HOUSE OF REPRESENTATIVES—THURSDAY, DECEMBER 3, 1970

Mr. HECHLER of West Virginia, Mr. Speaker, recently a team of students working in Texas for Ralph Nader issued a report as the result of a study on inequities in property taxes. Inequitable assessment practices exist throughout the country. These practices are costing the cities, homeowners, and small businesses a billion dollars annually. It is important, therefore, that this study be made available to the Members and the facts made public in the hope that some constructive change will result.

(The study follows:)

THE PROPERTY TAX: A STUDY OF INEQUALITY OF VALUATIONS AND ASSESSMENTS IN TEXAS

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PREFACE

Despite a periodic vigorous attack and occasional demand for its demise, the property tax today remains the most important revenue producing source for local governments. In Texas, this ad valorem tax is required by the constitution to be based on the fair market value of real and personal property. But serious neglect and abuse in its administration has resulted in the substantial underevaluation of certain classes of property; when the local taxing districts merely raise the ratio of assessment and tax rate they only worsen the impact of this unequal burden. This report examines the assessed valuation of mineral property in the Permian Basin, timber property in East Texas, and commercial and industrial property in the Houston area. A comparison of these valuations (at full value) with actual fair market values—derived in most cases from actual sales prices or estimates of value from the parties owning or trading the property—reveals a significant *undervaluation* for taxation purposes. The loser is the homeowning taxpayer, sharing more and more of the burden but receiving less in public services. It is the hope of the members of this project that the results of the study will accelerate reform of the property tax in Texas, and that the study itself may serve as a model for similar studies throughout the United States.

R. W. M.

NOVEMBER 2, 1970.

OIL AND GAS PROPERTY: ECTOR COUNTY, T⁻X.

AN INTRODUCTION TO SOME PROBLEMS OF VALUATION AND ASSESSMENT

I. Property subject to taxation, tax assessor-collectors, and independent appraisal firms

Statutory provisions regarding the property subject to taxation are clear:

"All property, real, personal or mixed, except as may be hereinafter expressly exempted, is subject to taxation, and the same shall be rendered and listed as herein prescribed." [1]

That a mineral interest, whether working interest or royalty, is defined as "real property" for purposes of ad valorem taxation is well settled.[2] The standard of valuation for a mineral interest, like that for other real property, is the "true and full value in money." [3]

The task of assigning property interests and assigning the assessed valuation (the assessed valuation appears on the tax rolls as a given percentage of the fair market value, determined in the county, for example, by the County Commissioners) is the function of some 1500 local assessors (elected to four year terms[4]), as well as the numerous assessors for school, city, hospital, and other special districts.[5]

The County Assessor-Collectors are not licensed by any state agency or board, and therefore are "qualified" for office if duly elected by the voters in the county.[6] They may rely on the Tax Assessor-Collector Instruction Manual, containing rules, regulations, opinions of the Attorney General, instructions, and forms; they may attend the Association of County Assessor-Collectors annual conference, or the Annual Institute for Tax Assessors (which in 1962 hosted 212 persons, only four of whom were County Assessor-Collectors).[7]

The burden of valuation and assessment, however, in areas where some sophistication in the appraising process is required, is often assumed by an independent appraisal firm. The valuation of oil and gas property for taxing districts is the job of a very few firms. Pritchard and Abbott Valuation Engineers of Texas currently has about 400 contracts with various taxing districts, and consequently appraises about 60 percent of the state. The firm normally appraises all the property within a district, mineral as well as other classifications, and typically contracts with all the overlapping districts, such as city, county, and school.[8]

II. Equality and uniformity

The state constitutional requirement of equality and uniformity in taxation is of fundamental importance in comparing the mineral valuations with other real property valuations:

"Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proposition to its value, which shall be ascertained as may be provided by law." [9]

The requirement is "imperative under our Constitution," [10] and clearly applicable to ad valorem taxation.[11] Uniformity means that value must be determined by the same standard,[12] and the standard for the property tax in Texas is the fair market value: [13]

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[1] Tex. Rev. Stat. Ann. art. 7145 (1960).

[2] Tex. Rev. Stat. Ann. art. 7146 (1960); *Liberty Century Trust Co. v. Gilliland Oil Co.*, 297 F. 494 (D. Tex. 1924): *Texas v. Downman*, 134 S.W. 787 (Tex. Civ. App.—1911. writ ref'd); *Stephens County v. Mid-Kansas Oil and Gas Co.*, 113 Tex. 160, 254 S.W. 290 (1923).

[3] Tex. Rev. Civ. Stat. art. 7174 (1960): *Phillips Petroleum v. Townsend*, 63 F.2d 293 (5th Cir., 1933); *Rowland v. Tyler*, 5 S.W. 2d 756 (Tex. Comm'n App. 1928, holding approved); *Lively v. M. K., and T. Ry.*, 102 Tex. 545, 120 S.W. 852 (1909).

[4] Tex. Const. art. VIII, § 16.

[5] 2 Advisory Commission on Intergovernmental Relations, the Role of the States in Strengthening the Property Tax 157 (1968).

[6] Letter from Robert S. Calvert, Comptroller, to Richard Mithoff, Jr., March 17, 1970.

[7] 2 Advisory Commission, *supra* n. 5, at 156.

[8] Interview with Earle Bruce of Pritchard and Abbott (Odessa), November, 1969.

[9] Tex. Const. art. VIII, § 1.

[10] Breckenridge v. Pierce, 251 S.W. 316 (Tex. Civ. App.—Ft. Worth 1923, writ dism'd). *See* Lively v. M., K., and T. Ry., 102 Tex. 545, 120 S.W. 852 (1909); Porter v. Langley, 178 S.W. 820 (Tex. Civ. App.—Galveston 1915, writ ref'd).

[11] State v. Lowman, 115 S.W. 2d 794 (Tex. Civ. App.—Eastland 1938), *rev'd on other grounds*, 133 S.W. 2d 926 (1939).

[12] Lively v. M., K., and T. Ry., 102 Tex. 545, 120 S.W. 852 (1909).

[13] Tex. Const. art. VIII, § 1; Tex. Rev. Stat. Ann. art. 7174.

"Uniformity in taxation throws the proper burden of taxation on each individual taxpayer, and the principle should never be departed from. The greatest benefit comes to each and all when it is scrupulously observed. The value of property is the correct standard of uniformity and the Constitution has so fixed it. Taxation cannot be in proportion to the value of property unless the value of all property is ascertained by the same standard."[14]

"To assess the property of one or a few owners at a materially higher percentage of its value than the percentage of the value at which the property of a great majority of the owners in the city is assessed is unconstitutional, and especially if done in pursuance of some custom, system, or scheme in which values are not ascertained as provided." [15]

This concept of uniform assessment is complicated by the rather widespread practice of assessing all property at a percentage of its fair market value. (In Ector County, for example, the ratio of assessments in 1969 for the county was 18%, and for the school board it was 45%.) Reasons advanced for this practice include the desire to minimize taxpayer complaints and to obviate the necessity for readjustment in the event of falling market prices.[16] (More simply, the confused taxpayer is less likely to complain.) Theoretically, of course, the use of assessment ratios should make no difference. The procedure must start with an appraisal of the property at its fair market value. But realistically, as the Advisory Commission on Intergovernmental Regulations reports, this practice is not calculated to alert either the taxpayer or tax assessor to levels of inequality. Moreover, the report continues, "There is a tendency for nonuniformity to *increase* when property as assessed at low fractions of full value." (Emphasis added.)[17] The commission has recommended full disclosure to the taxpayer, with tax rolls revealing both the full market values as well as the assessed valuations.[18]

But the practice of listing only the values at the given ratio of assessment continues, and the confusion persists. Absolute equality and uniformity, of course, is not practicable, and not required.[19] But serious differences in the ratios of assessment are not acceptable. The court declares quite early in ***Richardson v. State*** [20] that the requirement of taxation in proportion to value must yield to the "equal and uniform" requirement where the assessor has generally assessed property at less than its fair market value (*i.e.*, at some ratio of assessment). In *Richardson*, the land in the county generally was assessed at approximately 60 percent of the fair market value, while defendant's mineral property was appraised on the basis of an arbitrary formula, which made the fair market value depend solely upon the average number of barrels of royalty oil produced daily for a period of 92 days preceding the first day of January of each year. The Court of Civil Appeals upheld the trial court's finding that the assessments were void, but reversed and remanded because the trial court undertook to reassess the property, which is the duty of the board of equalization.[21]

One further problem should be discussed. Despite the absolute commandment of "equality and uniformity," a few cases have established that the legislature may make certain classifications of persons and property for purposes of taxation if the legislature does not act arbitrarily or unreasonably, and if there is a reasonable basis for the classification. This has been established at least in the case of franchise taxes,[22] inheritance taxes,[23] and occupation taxes.[24] A number of courts have refused to enjoin the collection of the property tax where it is apparent that the different classes of property have been assessed at different ratios of full value, but have done so because of the failure of the plaintiff to show substantial

[14] Hunt v. Throckmorton Ind. School Dist., 59 S.W. 2d 470 (Tex. Civ. App.—Eastland 1933, no writ).

[15] Randals v. State, 15 S.W. 2d 715 (Tex. Civ. App.—El Paso 1929, no writ).

[16] Note, *Remedies for Unequal Property Tax Assessment*, 46 Harv. L. Rev. 1001–02 (1933).

[17] 1 Advisory Commission on Intergovernmental Relations, the role of the States in Strengthening the Property Tax 59 (1963).

[18] *Id.* at 63–64.

[19] Nederland Ind. School Dist. v. Carter, 93 S.W 2d 387 (Tex. Civ. App.—Beaumont 1936, writ dism'd).

[20] 53 S.W. 2d 508 (Tex. Civ. App.—Eastland 1932), *aff'd*, 84 S.W. 2d 1076 (Tex. Comm'n App. 1935 opinion adopted).

[21] *Id.*

[22] Calvert v. Capital Southwest Corp., 441 S.W. 2d 247 (Tex. Civ. App.—Austin 1969, writ ref'd n.r.e.) : Crason County State Blank v. Calvert, 357 S.W. 2d 160 (Tex. Civ. App.—Austin 1962, writ ref'd n.r.e.).

[23] San Jacinto Nat'l Bank v. Sheppard, 125 S.W. 2d 715 (Tex. Civ. App.—Austin 1938, no writ).

[24] Sheppard v. Giebel, 110 S.W. 2d 166 (Tex. Civ. App.—Austin 1937, no writ).

injury, or because the plaintiff failed to avail himself of the injunctive remedy before the tax plan went into effect and could not prove the exact amount by which his taxes were excessive.[25]

One case found in which this classification exception was applied specifically to deny relief in a real property tax suit involved a situation in which "oil in storage" had been assessed at 30 percent of its value, and all other property in the district assessed at 60 percent of its value. The court declared that the assessment ratios need only be uniform *within* the particular classification.[26] This is clearly contrary to the great weight of authority.[27]

In a rather unusual case decided recently, but involving the city tax, the classification exception was relied on in part to uphold an annexation ordinance, and indirectly to support a property tax classification. (The court did, however, wisely advise the appellee that the taxation matter was premature at this time, and would have to be raised at a later date.) The principal challenge came from a property owner whose property had been annexed by the city of Pasadena, Texas, and thereby made subject to the city taxes. Adjacent landowners, to wit Ethyl, Tenneco, and Phillips, on the other hand, whose property was not to be annexed under an agreement (authorized by statute[28]) with the city, had only to make payments, as part of the agreement and *in lieu of taxes*, amounting to about 30 percent of the normal rate. The court held that there was a reasonable basis for classification.[29]

VALUATION OF OIL AND GAS PROPERTY

The valuation of mineral properties is a complex procedure. Unlike appraisals of residential property, and some commercial property, where resort to current selling or leasing prices is a fairly simple matter, valuations of oil and gas property under production are made without the evidence of a recent sales price (sales of producing property are rare, for obvious reasons), and without the aid of industry estimates. Valuation of producing property requires first the technical analysis (considering such data as estimates of reserves, rate of production, price of the product, and cost of operation) to arrive at the future net revenue. Present value is then calculated from future net revenue, discounted either at the prevailing interest rates with subsequent allowance for other factors,[30] or at a rate which considers both the prevailing interest and these other factors.[31]

Advocates of the first approach disagree over the rate of interest and the component factors to consider. Some of the risks, or hazards, may include decline in the price of the product, increase in the operating costs, or substantial error in the calculation of reserves. The degree of risk will naturally bear to some extent on the production history. There is some dispute as to whether federal income taxes should be considered.[32]

The second approach eliminates some of the disagreement over which variables to consider. This is the Hoskold, or sinking fund method, which provides for the discount of future net revenue at various interest rates, and the return of capital through a sinking fund invested at four percent.[33] The Hoskold formula is ap-

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[25] Although some confusion exists as to whether the taxpayer must always show substantial injury after demonstrating gross inequality, *e.g.*, Waco v. Conlee Seed Co., 449 S.W. 2d (Tex. 1969); State v. Federal Land Bank of Houston, 329 S.W. 2d 847 (Tex. 1959), recent opinions on this issue appear to be that in a direct attack (in a suit to enjoin the collection of taxes before the tax plan has gone into effect), the plaintiff must show substantial injury. Arlington v. Cannon, 153 Tex. 566, 271 S.W. 2d 414 (Tex. 1954); Dietrich v. Phipps, 438 S.W. 2d 900 (Tex. Civ. App.—Houston 1969, no writ). This is distinguished from the collateral attack (in a suit defending an action for delinquent taxes) where the taxpayer has the more onerous burden of showing the precise dollar amount by which he is injured. State v. Federal Land Bank of Houston, 329 S.W. 2d 847 (Tex. 1959); Orange v. Livingston Shipbuilding Co., 258 F. 2d 240 (5th Cir. 1958). *But see* Briscoe Ranches, Inc. v. Eagle Pass Ind. School Dist., 439 S.W. 2d 118 (Tex. Civ. App.—San Antonio 1969, writ ref'd n.r.e.).

[26] Feldman v. Bevil, 190 S.W. 2d 157 (Tex. Civ. App.—Beaumont, 1945, writ ref'd w.o.m.).

[27] *See* note 25 *supra*.

[28] Tex. Rev. Civ. Stat. Ann., art. 970 a. § 5 (1963).

[29] *Pasadena* v. *Houston Endowment, Inc.* 438 S.W. 2d 152 (Tex. Civ. App.—Houston, 1969. writ ref'd. n.r.e.).

[30] DeGolyer, *Evaluation,* First Annual Institute on oil and gas law 591 (1949); Field, *Valuation of Oil and Gas Properties for State Ad Valorem Tax Purposes.* 7 Oil and Gas Institute 483 (1945).

[31] Campbell, Oil Property Evaluation 452–454 (1959); Fiské, Federal Taxation of Oil and Gas Transactions 165 (1969).

[32] Field, *supra* n. 30.

[33] Fiske, Campbell, *supra* n. 31.

proved as a valid approach, provided the proper rate of interest is selected. Because of the risks involved in oil and gas investment, the rate should be approximately 10 percent.[34] The Hoskold method was chosen for this study in order to rely exclusively on industry projections of future net revenue, and to avoid possible disagreement over the size and number of the variables to include in an estimate computed under the first approach.

The valuation of nonproducing oil and gas property is apparently universally ignored for purposes of ad valorem taxation. It is customary in states not having a specific exemption, or special provision such as the mineral documentary stamp, for the nonproducing property to be placed on the tax rolls at a nominal value.[35] (In Ector County, the nominal assessment varies from $.50 to 1.00 an acre.) Reasons advanced for this practice vary. A spokesman for Pritchard and Abbott declares that, "Until a nonproducing property is developed, it could be worthless. . . . We couldn't afford to have nonproducing property assessed." [36] The Ector County Tax Assessor states that the property is just "not worth taxing." [37] Since nonproducing property not voluntarily rendered by the taxpayer is not taxed at all, it is reasonable to assume that the industry renders its nonproducing property only to protect against claims arising under adverse possession—a reason supported by the local tax assessor and Pritchard and Abbott. The nominal assessment may be necessary only to cover the cost of recording the assessment.[38]

Nevertheless, there is authority to support the proposition that nonproducing property has a market value that is easily ascertained. The lessee commonly pays a "bonus" to the lessor as partial inducement for completing the transaction. The bonus may prove to be only a fraction of the value of the property, and does not, of course, include rental payments, or royalty, should the lease prove productive. The bonus value is a fair indication of the value of the property, provided due weight is given to the effect of drilling a successful well, which would enhance the value, or of drilling a "dry hole," which would obviously deflate the value.[39]

I. Producing property

This study compares valuations by Pritchard and Abbott Valuation Engineers, independent appraisal firm hired by Ector County with valuations based on future revenue projections of the industry itself. The property under study is the Headlee Devonian Unit, covering approximately 15,000 acres in Ector and Midland Counties. The industry revenue projections are taken from the Devonian Report. Headlee and Dora Roberts Field, Ector and Midland Counties, Texas, filed with the Texas Railroad Commission in August, 1956, prior to Commission approval for unitization and gas injection.

The unitization agreement allows the unit operators to pool their production efforts, and to share in the production from any tract on the basis of the proportion that the operator's tract effective acre feet bears to the total unit effective acre feet. The injection of gas under the pressure maintenance approach serves to maximize recovery of the stock tank liquids and plant products.

The reservoir is now classified as a gas condensate rather than oil reservoir, as originally designated, and on January 30, 1961, the Commission authorized the mixed stream production of natural gas liquids and stock tank liquids.[40] Actual daily average production as reported by Pritchard and Abbott corresponds very closely to the daily average production as projected by the operators in the field, in the period under study (1963 to 1970). (See Appendix, pp A–6, A–8.)

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[34] Fiske, *id.*
[35] Field, *supra* n. 30 at 530.
[36] Interview with Earle Bruce of Pritchard and Abbott (Odessa), December 1969.
[37] Interview with Curtis Wynn, Ector County Tax Assessor-Collector, December 1969.
[38] Field, *supra* n. 30 at 530.
[39] Fiske, *supra* n. 31 at 169–170.
[40] Report on Headlee-Devonian Unit filed by unit operators in May 1962.

A comparison of the actual valuations of Pritchard and Abbott with those computed from the projected revenue figures of the industry (using the Hoskold method described earlier) reveals a startling undervaluation of approximately 56.19 percent. (See Appendix, pp A–7, A–9.)

Pritchard and Abbott claim that the liquids currently produced are less valuable than those described in the original report, that the costs of operation have risen,[41] and that therefore the unit has not been as profitable as originally expected.[42] This is in direct contradiction, however, to the statement (January 13, 1970) from Atlantic Richfield, insisting that, "Profits have proven to be *higher than originally estimated* for the field at this point in time," and that the "reservoir is currently estimated to be *almost double* that referred to in the report . . ."[43] (Emphasis added.) The conclusion would appear to be, then, if industry sources can be believed,[44] that the valuations of Pritchard and Abbott are far below the currently accepted measures of fair market value.

II. Nonproducing property

This study compares the valuations of Pritchard and Abbott with the actual "bonus price" paid for an oil and gas lease. The property is classified "nonproducing" for purposes of the study if, after execution of the lease, the property was assessed at a nominal rate, or not rendered for taxation at all, indicating according to Pritchard and Abbott a lack of production. (See Appendix, pp. A–1, A–3, A–5.) In some instances the property assigned a nominal assessment has proven productive in the next year, and "suddenly jumped" in value. (See Appendix, pp. A–2, A—5.)

The "bonus value" is easily determined from the value of the revenue stamps affixed to the lease, which of course is recorded in the County Clerk's office. (The revenue stamps were, however, discontinued after January 1, 1968.)

The nominal assessment of nonproducing property without regarding to market value is admitted by Pritchard and Abbott and the County Tax Assessor-Collector, as is the failure to tax some property even on a nominal basis, which was the case with over $400,000 worth of Texaco leases in 1965 and 1966. (See Appendix, pp. A–3—A–5.)

The random sample of local homeowners' property, selected from different sections of Odessa, in Ector County (Pritchard and Abbott contracts with the city as well) shows a remarkably close correlation between the valuations of Pritchard and Tabbott and the actual sales prices of homes sold in 1969. (See Appendix, pp. A–10, A–11.) All undervaluation is approximately only 7.06 percent.

[41] Report filed by Pritchard and Abbott on August 10, 1970, in response to a request from Ector County Judge Mike Berry to make the specific disclosure requested in the Petition to the Board of Equalization on June 30, 1970. See Appendix, pp. A–15–16.

[42] Testimony of R. W. Wood before the Ector County Board of Equalization, June 30, 1970.

[43] Letter from E. W. Tyler, District Engineer, Atlantic Richfield, to Richard Mithoff, Jr., on Jan. 13, 1970.

[44] Letter from E. W. Tyler to County Judge Mike Berry on July 6, 1970.

APPENDIX—NONPRODUCING PROPERTIES

Publisher (1)	Date recorded (2)	Description (3)	Price (4)	Valuation (at 100 percent) for tax rolls (Pritchard & Abbott) (5): Year	Valuation (at 100 percent) for tax rolls (Pritchard & Abbott) (5): Amount
A. Rendered (with little or no apparent production):					
Texaco	June 25, 1965	E/2 of W/2, W/2 of E/2 of Sec. 21, Blk. 44, T-3-S	$32,500	1966	$4,998.00
				1967	4,440.00
Shell	Jan. 24, 1964	E/2 of Sec. 33, Blk. 41, T-1-S	11,500	1965	1,142.40
				1966	1,142.40
Cities Service	Jan. 30, 1961	E/2 of Sec. 34, Blk. 44, T-3-S	27,272	1962	999.60
				1963	999.60
Shell	Mar. 27, 1957	W/2 of SE/4 of Sec. 34, Blk. 44, T-3-S (below 4,500 ft.)	16,500	1957	400.00
				1958	200.00
Do	Mar. 8, 1957	E/2 of NE/4 of Sec. 34, Blk. 44, T-3-S (below 4,500 ft.)	16,500	1957	400.00
				1958	200.00
Do	Dec. 3, 1956	NW/4 of Sec. 30, SW/4 and W/2 of NW/4 of Sec. 19, Blk. 43, T-2-S	80,000	1957	2,000.00
				1958	(1)
Do	Sept. 19, 1955	Sec. 12, Blk. 44, T-2-S	100,000	1956	3,200.00
				1957	3,200.00
Do	Sept. 19, 1955	E/2 of Sec. 1, Blk. 44, T-2-S	50,000	1956	1,600.00
				1957	1,600.00
B. Rendered (with some apparent production after the 1st year):					
Samedan	Oct. 21, 1963	NW/4 of Sec. 10, Blk. 35 University Land	11,000	1964 [2]	71.40
				1965 [2]	571.20
				1966 [3]	71.40
				1967 [4]	55.50
Continental (assignee)	May 10, 1961	W/2 of Sec. 24, Blk. 43, T-3-S	21,500	1962	1,142.40
				1963	106,386.00
Shell	Sept. 19, 1955	E/2 of Sec. 11, Blk. 44, T-2-S	50,000	1956	1,600.00
				1957	115,200.00

[1] Not carried.
[2] 5/8 W.I.
[3] 1/2 of 5/8 W.I.
[4] 1/2 of 5/8 W.I.

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Purchaser (1)	Date recorded (2)	Description (3)	Price (4)	Remarks (5)
C. Nor rendered (not carried on the tax rolls as rendered or unrendered property):				
Texaco	Jan. 26, 1966, and Feb. 3, 1966	E/2 of Sec. 22, Blk. 44, T-3-S [1] W/4 of Sec. 21, Blk. 44, T-3-S E/4 of Sec. 21, Blk. 44, T-3-S W/2 of Sec. 30, Blk. 43, T-3-S [1] S/2 of Sec. 29, Blk. 44, T-3-S N/2 of Sec. 30, Blk. 44, T-3-S N. 387 ft. of W/2 of SW/4 and N. 952 ft. of E/2 of SW/4 of Sec. 30, Blk. 44, T-3-S. SW/4 of Sec. 30, Blk. 44, T-3-S, except that described in tract 3, and in tract 4, only those rights below 4,500 ft. Sec. 28, Blk. 44, T-3-S.	[2] $220,000	Not carried on tax rolls in 1967, 1968, or 1969.
Do	Feb. 21, 1966	S/2 of Sec. 2, Blk. 44, T-3-S [3] Sec. 10, Blk. 44, T-3-S S/2 of Sec. 1, Blk. 44, T-3-S W/2 of Sec. 11, Blk. 44, T-3-S Sec. 11, Blk. 44, T-3-S Sec. 12, Blk. 44, T-3-S, save and except NE/4 of NE/4 of NE/4.	[4] 109,500	Do.
Do	June 25, 1965	N/2 of Sec. 38, Blk. 43, T-3-S S/2 of Sec. 38, Blk. 43, T-3-S N/2 of Sec. 29, Blk. 44, T-3-S S/2 of Sec. 12, Blk. 43, T-4-S.[5]	[2] 131,000	Not carried on tax rolls in 1966, 1967, 1968, 1969.
Total sales value of leases cited here.[6]			460,500	

[1] But the royalty interest was recorded with a value (combined total) of $38,461.50 in 1969.
[2] Total price.
[3] Releases recorded Nov. 18, 1969; Dec. 2, 1969; Dec. 16, 1969 (total price of leases $100).
[4] Over.
[5] Release recorded Oct. 21, 1969.
[6] On the 1969 tax rolls Texaco included for the first time a category for "nonproducing minerals as rendered"—giving a total value (at 100 percent) of $85,581, with no breakdown by individual leases. Compare this figure with the total value of just the leases cited here.

Column 1 gives the oil company which purchased (or in some instances took by assignment) the lease or working interest in the property.

Column 2 gives the date lease (or series of leases) was recorded in the Deed Records, County Clerk's office.

Column 3 gives a description of the working interest.

Column 4 gives the amount of the initial payment, or bonus, made at the time of execution of the lease. (If the property proves to be productive, the bonus value will be only a *fraction* of the fair market value, because the present value of future royalty payments is excluded.) Although the usual lease recites only "for $10.00 and other valuable consideration," the revenue stamps (in effect up until Jan. 1, 1968) can be used to determine bonus value of any lease over $100.00. The valuation of a nonproducing property should be based on the actual sales price, if available. Leland E. Fiske, *Federal Taxation of Oil and Gas Transactions* (1969), p. 169–71.

Column 5 gives the actual valuation (at 100%) by Pritchard and Abbott where the property is rendered, or notes the fact that the property is not even rendered at all.

II. PRODUCING PROPERTIES: THE HEADLEE-DEVONIAN UNIT

	A. Production				B. Valuations		
	Estimates of operators in the field (1)		Pritchard and Abbott (2)		Estimates based on projections of operators in the field: Valuation of 7/8 mineral interest based on percent value of future net income	Pritchard and Abbott actual valuation (at 100 percent) of 7/8 mineral interest from tax rolls	Approximate percentage of undervaluation (comparing cols 3 and 4)
Year	Projected 8/8 daily average production (in barrels)	Projected number of wells	Actual 8/8 daily average production (in barrels)	Actual number of wells	(3)	(4)	(5)
1969	17,553	164	15,949	164	$112,053,000	$52,009,494	47.2
1968	17,625	164	17,290	164	117,438,000	53,526,087	48.4
1967	17,625	164	19,123	164	122,537,000	44,350,771	59.2
1966	17,625	164	20,980	164	127,506,000	60,135,079	47.1
1965	17,625	164	22,320	164	132,284,000	62,348,836	47.5
1964	17,625	164	[1] 17,625	(2)	136,911,300	65,486,866	47.0
1963	17,625	164	15,553	140	141,388,000	51,499,535	59.8
Total	123,303		128,840				
Average approximate percentage of undervaluation							56.19

[1] Estimate, no figure available.

[2] No figure available.

A. Production

The production columns are included to substantiate the validity of a study comparing *actual* valuations by Pritchard and Abbott for the tax rolls, and the valuations based on *projections* by the operators in the field.

Column 1 gives the projected 8/8 Daily Average Production and total number of wells, as estimated by the operators in the field. *Devonian Report, Headlee and Dora Roberts Field, Ector and Midland Counties, Texas*, March 1956. (Filed with the Texas Railroad Commission, Oil and Gas Division, in preparation for the hearing [August, 1956] relative to the utilization agreement.)

Column 2 gives the actual 8/8 Daily Average Production and the total number of wells, as reported by Pritchard and Abbott.

The seven-year (1963 through 1969) is chosen as representative because the *actual* daily average production, when compared on an annual basis, corresponds closely to the *projected* daily average. In fact, the *total* actually daily average *exceeds* the estimates during this period.

B. Valuations

Column 3 gives the valuations of the 7/8 mineral interest based on the present value of future net income, discounted at 10 percent using the Hoskold Formula, suggested as a means of determining the fair market value of oil and gas properties. Fiske, *Federal Taxation of Oil and Gas Transactions* (1969), pp. 166–168. John M. Campbell, *Oil Property Evaluation* (1959), pp. 452–454. Annual estimates of future net income are from the operators in the field. *Devonian Report, supra.*

Column 4 gives the actual valuations (at 100%) of the 7/8 mineral interests as reported by Pritchard and Abbott.

Column 5 gives the annual approximate percentages by which this unit has been undervalued, as well as an average of these percentages.

III. LOCAL REAL ESTATE, HOMES (A RANDOM SELECTION)

Description (1)	Price (1969 sales) (2)	Valuation (at 100 percent) for 1969 tax rolls (Pritchard & Abbott) (3)	Approximate percentage of undervaluation (comparing cols. 2 and 3) (4)
4003 Pleasant Lot 7, Blk. 27 Terrace Hills	$8,500	$7,048.50	17.1
909 E. 21st Lot 21, Blk. 11 Sage Hill	8,150	7,603.50	6.6
3719 Holly Lot 2, Blk. 33 Windsor Heights	12,250	11,100.00	9.4
2702 S. Colonial Lot 12, Blk. 8 Bellaire	7,950	6,549.00	17.6
2801 Disney Lot 7, Blk. 1 Wedgewood	15,330	14,485.00	5.5
2108 W. 27th Lot 17, Blk. 62 Harrisdale	8,700	8,491.50	2.4
401 Elm Lot 4, Blk. 14 Ridgecrest	7,600	6,605.00	13.1
1508 Spur N. 73 Feet of Lot 5, Blk. 93 Crescent Park	19,500	19,869.00	−1.85
Blackstone Lot 31, 504 Blk. 2 Rochester Heights	7,650	7,104.00	7.2
2674 E. 25th Lot 23, Blk. 135 Crescent Park	13,950	13,930.50	.15
1309 Westbrook Lot 11, Blk. 9 Westwood	14,500	13,098.00	9.7
2304 W. 15th Lot 22, Blk. 1 Park Annex	7,500	7,659.00	−2.13
Average approximate percentage of undervaluation			7.06

TIMBERLAND IN EAST TEXAS

Sharon L. Feather, William L. Feather, and Louis J. Sirico

INTRODUCTION

The taxation of timberland, like other real property in Texas, is based on its current fair market value, that is, what a willing buyer would pay a willing seller for a given tract of timberland. The present study attempt to survey the methods by which East Texas school and county tax assessors evaluate and tax timberland.

Ideally, one would verify sales by asking recent buyers or sellers the price they paid or charged for a particular tract of land. Although specific prices for specific pieces of land proved unavailable, estimates of the current market value were obtained from several reliable sources: a state forest appraiser, a forestry

professor at Stephen F. Austin State University, an independent professional forest appraiser, a tax assessor, and the rolls of school districts following sound assessing practices. Two newspaper articles also cited current market values for timberland.

A state forestry appraiser indicated that timberland in southeast Texas starts selling at $180 to $200 per acre, with prices in heavily forested areas sometimes rising to $300 per acre. Bare land is worth $85 per acre, and every 1000 board feet of timber adds another $50 to the acre value. The appraiser gave as an example the recent sale of a large parcel of timberland in Jasper County at $250 per acre.

A forestry professor at Stephen F. Austin State University informed us that he had just paid $200 per acre for forest plantation land in Cherokee County, and that International Paper Company was paying a *minimum* of $125 per acre for all the timberlands it could get. These figures reflect values in the northern part of East Texas where the land is less fertile and provides a poorer stock of timber than do other parts of the Piney Woods.

An independent professional forest appraiser living in the same area estimated that all pinewood forestland is worth $100 to $300 per acre. He indicated that Southland Paper Mills, Inc., was paying $180 to $220 per acre for any land they were offered with minimal marketable timber, and another timber company had recently paid $195 per acre for a large tract of poorly stocked timberland.

Timberland values in the southern half of the East Texas forest are higher. The county tax assessor for Newton County in Southeast Texas estimated that timberland in his county sold for at least $200 per acre.

In early July a fire destroyed 300 acres of Angelina County timberland owned by Owens-Illinois Corporation. An area timber man estimating the loss was quoted by *The Lufkin News* (July 9, at p. 1) as placing the value of the timberland in the range of $250 to $350 per acre.

On June 12, a United States Senate subcommittee on parks and recreation heard testimony in Beaumont regarding the proposed Big Thicket National Park. At the hearing, Orrin H. Bonney, chairman of the Bib Thicket Coordinating Committee testified that present prices on land in the 100,000 acre park area ranged from $250 to $350 per acre. ("Interests Disagree on Big Thicket Park Size," *Houston Post*, sec. 3, p. 24, June 13, 1970).

As these figures reveal, the market value of timberlands fluctuates greatly, sometimes rising to as much as $350 per acre. Most estimates, however, center around a $200 per acre median. This figure provides the conservative estimate of market value that this report uses in comparing *actual* fair market values with the fair market values that the county and school district tax assessor assign to timberlands.

PRACTICES TAX COLLECTOR-ASSESSORS EMPLOY

Following is a six-county survey of the methods county and school district assessors use in placing a market value on timber acreage. Most tax assessors compute the assessed valuation on a flat rate per acre basis, and make no attempt to assign true market values. The assessors' estimate of fair market value may be derived by dividing the assessment ratio into the assessed valuation. In considering these fair market values, keep in mind that $200 per acre represents a conservative average estimate of the price such acreage could bring on the open market.

Angelina County

County

Evaluation Method: All unimproved acreage outside the city limits is placed on the rolls at $10 per acre (assessment ratio of 25%), indicating a fair market valuation of $40 per acre.

Comments: Present rates have been in effect since the 1963 tax roll. The previous rate was $5 per acre.

Lufkin Independent School District

Evaluation Method: The district ascertains fair market value by using comparable sales methods and personal contacts with buyers and sellers. Assessments of timberlands generally fall into the $240 to $313 per acre range for full market value.

Comments: The school district evaluations closely approximate actual market value, and the district makes frequent reassessments.

Diboll Independent School District

Evaluation Method: All unimproved rural acreage outside the city limits is placed on the rolls at $20 per acre (assessment ratio is 40%), indicating a fair market valuation of $50 per acre.

Comments: The assessor-collector has many other time-consuming administrative functions, allowing him little opportunity to re-evaluate property.

Hardin County

County

Evaluation Method: The appraising firm of Pritchard and Abbott evaluated all property in 1964. Since then, the county has raised the rates. Most timberland is placed on the rolls at $16.60 per acre (assessment ratio is 20%), indicating a fair market valuation of $83 per acre. The county evaluates other timberland between $75 and $88 per acre fair market value.

Lumberton Independent School District

Evaluation Method: In 1968, the Terry Company of Beaumont, Texas, evaluated all acreage. Timberland not evaluated at higher use residential development rates was assessed at $160 per acre fair market value.

Comment: Major timber companies have protested these assessments. Last year they threatened not to pay and withheld needed school funds until June.

Silsbee Independent School District

Evaluation Method: In 1962 a professional forest appraiser valued timberland at $102 per acre, but the district claims to employ a fair market value of $90 per acre for taxation purposes. There has been no re-evaluation since. All timberland is actually placed on the rolls at $32 per acre. Assessment ratio is 55 percent on other property.

Jasper county

County

Evaluation Method: All unimproved acreage is placed on the rolls at $23 per acre (assessment ratio is 25%), indicating a fair market valuation of $92 per acre.

Liberty county

County

Evaluation Method: In 1967, the appraisal firm of Davis and Wilson valued all property in the county at a cost to the county of $108,000. It evaluated timberlands according to the following schedule:

Timber:	*Per acre*
A (good quality) (fair market value)	$150
B (fair quality)	130
C (poor quality)	110

Comment: The county contains little type A timberland, but the county assessor estimates that type B acreage presently sells for $250 to $300 per acre.

Liberty independent school district

Evaluation Method: The school district classified timberland quality according to Davis and Wilson's 1967 county-wide evaluations and adopted the following schedule:

Timber:	*Per acre*
A (good quality) (fair market value)	$130
B (fair quality)	110
C (poor quality)	90

Comment: This school district is now in the process of re-evaluating all property.

Hardin Independent School District

Evaluation Method: The last evaluation occurred in 1958, although the assessment ratio and tax rates have risen since. The district taxes Kirby Lumber

Corporation timberlands according to 1958 market values, but taxes other forest land on valuations as low as $60 per acre fair market value.

Comment: Kirby Corporation's higher evaluations result from the litigation. *Kirby Lumber Corp. v. Harding Ind. School Dist.* 851 S.W. 2d 310 (Tex. Civ. App.—Waco 1961, writ ref'd n.r.e.).

Nacogdoches County

County

Evaluation Method: All unimproved acreage is placed on the rolls at $15 per acre for land adjoining paved roads and at $12 per acre for all other land. The assessment ratio is 30 percent, indicating fair market valuations of $50 and $40 per acre respectively.

Comment: Injunctions have prohibited this nearly bankrupt county from reassessing. After the Nacogdoches Independent School District consolidated with another district, the school tax assessor discovered 1200 acres of land omitted from the county's tax rolls in the latter district.

Nacogdoches Independent School District

Evaluation Method: A professional timber appraiser makes evaluations.

Comment: This district contains few acres of timberland.

Newton County

County

Evaluation Method: All unimproved acreage is rendered at $14.50 per acre (assessment ratio is 10%), indicating a fair market valuation of $145 per acre. The county employs a 15 percent assessment ratio for all other property. This use of two assessment ratios for different types of property is contrary to state law. *Randalls vs. State,* 15 S.W., 2d 715 (Tex. Civ. App.—El Paso 1929, no writ).

Comment: The county employed Davis and Wilson to compute their 1966 tax roll. This firm reported timberland in the county worth $60 to $70 per acre—approximately half the value past county rolls had employed. When the county refused to accept these figures, Davis and Wilson had to double their valuations before the county would adopt them.

Newton Independent School District

Evaluation Method: Acreage is placed on the rolls at $23 per acre (assessment ratio is 33⅓%), indicating a fair market valuation of $69 per acre, excluding mineral rights.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

Most taxing agencies studied make no attempt to find the true market value of timberlands within their districts. Most compute assessed valuations by multiplying the number of acres the taxpayer owns by a flat rate. A tax assessor applies this flat rate to *all* land whether stocked with timber or bare, a practice which is clearly illegal in light of the considerable differences in the values of these two classes of land.

Further, the assessed valuation for timberland consistently falls far below a realistic figure (See Table A). Consequently, timberland is valued at a much lower percentage of market value, although the agency claims to assess all property at the same percentage. This illegal practice results in lost revenue. (Table B and C) and discriminates against anyone whose property has been fairly appraised.

Many reasons account for these inaccurate and illegal practices.

(1) While all agencies acknowledge the need to reassess periodically, some neglect doing so simply because they happen to be meeting their present expenses. They, of course, will find themselves forced to reevaluate when their need for money becomes more acute. Some agencies, already feeling the financial pinch, still avoid needed reassessment by raising the assessment ratio. Although this procedure bring in the needed money without incurring the cost of re-assessment, it continues the same illegal practices. Timberlands are still placed on the rolls at a lower percentage of market value than are other properties.

(2) The difficulty of finding comparable market values for timberland is another reason for failure to re-assess. As one county assessor stated, timber companies ordinarily do not reveal to any tax collector the price they paid for a specific tract of land. Of course, some buyers and sellers *do* talk enough to allow an assessor to ascertain accurate market values, but eliciting such information can require a great deal of effort.

Since the deed of sales almost never includes the full purchase price, assessors must talk to buyers and sellers to verify sales in order to obtain market values for timberland. It is inconceivable that a state would rely for its income on property taxes and not require that a deed carry the full purchase price on its face. To force an assessor to ask a man how much value he, the owner, wants to place on his property for tax purposes can only be termed ludicrous.

Such malfeasance has stood unchallenged, perhaps because private homes comprise such a large proportion of taxable property, and are more easily assessed at market value. Most homeowners buy on credit; hence, the deed of trust provides an accessible estimate of the full price.

(3) Most assessors recognize the wisdom of hiring a professional to re-evaluate timberlands. Unfortunately, fear of paying a high price for such a service frequently discourages his course.

Recommendations

Agencies giving the expense of re-assessment as a reason for not re-evaluating timberlands fail to see that the revenues gained will more than compensate for the cost of hiring a professional. A state forest appraiser, experienced in professional land valuation, asserted that an appraisal of the timberland in an entire county would cost $20,000 at the absolute maximum. This price includes the cost of aerial photographs which some counties already possess. Counties and school districts would recover quickly even the maximum cost of $20,000, according to estimates of the revenue losses re-assessment would prevent. (See Table B and C.) In addition, the assessment would be accurate for several years, providing more time to recover the costs.

Counties and the school districts within them could reduce the cost by sharing the expense of the project. But as this study indicates, these agencies do not cooperate, resulting in the same land being assessed twice. School district and county figures on the same parcel of land vary widely, and often both figures fail to approximate realistic values. It is easy to see why school districts resist joining county officials in any projects, for the county most often assigns lower market value to a given tract of timberland. County figures will probably remain the lower of the two in the future since the county tax assessor-collector, an elected official, fears that re-assessing will incur the taxpayers' wrath. The school district's tax assessor, on the other hand, is appointed and more insulated from the taxpayers. Still it is difficult to imagine why some county tax assessors fail to check their valuations against those of the school districts. After all, the rolls are public record.

To remedy this situation, the state legislature should pass legislation requiring all deeds to include the full purchase price. Then the legislature should make the office of county tax assessor-collector non-elective. The official filling this position would be required to appraise all county lands for both school and county tax rolls.

Short of these reforms, many agencies need to reassess timberlands instead of applying one rendition rate to most property and an illegal lower rate to timberlands. School districts and counties should cooperate in sharing the expense of re-evaluation to save themselves and ultimately the taxpayer, the cost of duplicated efforts.

APPENDIX

THE DOLLARS AND CENTS CONSEQUENCES OF UNDERVALUATION

The following tabular study demonstrates the effects of underevaluating timberland upon the finances of six counties and eight school districts last year. Employing faulty and illegal assessing practices year after year has cost East Texas untold millions in potential tax revenue.

Since exact figures are impossible to ascertain due to the constantly increasing value of forest land over the past two decades, we limit our estimates to the past year. The frequent inaccuracy of tax roll entries also makes these figures approximations.

Keep in mind that this study surveys only a sampling of counties and school districts; many other jurisdictions in the 37 counties comprising East Texas are also losing tax revenues of sizeable dimensions.

EXPLANATION OF TABLES

Table A: Survey of Actual Assessing Methods (1969)

This table lists the fixed flat rates taxing authorities use in placing assessment valuations on the rolls. It compares the fair market values the agencies' records reflect with actual market values and indicates the loss of taxable property that illegal assessing practices cause.

Column 1: *Name of taxing agency*—county or school district.

Column 2: *Assessed valuation*—the flat dollar value the agency applies to all timberland regardless of quality. Unless otherwise specified, all agencies derive the assessed valuation of forest land from a flat rate formula.

Column 3: *Assessment ratio*—the percentage of fair market value at which a taxing agency lists property on its rolls. For example, a county employing a 25 percent assessment ratio would carry a $10,000 tract on its tax rolls at $2,500.

Column 4: *Actual fair market values*—As assigned by the agencies: Dividing assessment valuation by assessment ratio yields fair market value. For example, a county valuing an acre at $10 and using a 25 percent assesmenst ratio is assigning that acre a fair market value of $40.

Column 5: *Assessed valuation agency should assign*—Assuming a $200 per acre fair market value, Column 5 shows the average assessed valuation the agency should employ in contrast to the figure in Column 2.

Column 6: *Actual assessment ratio for timberlands*—Assuming a conservative average value of $200 per acre for timberland, this column shows the *actual* percentage of fair market value at which the taxing agency lists this property on its rolls, in contrast to the legal assessment ratio in Column 3. Any substantial discrepancy between the figures in Columns 3 and 6 indicates that the agency is applying—illegally—different ratios and disproportionate tax rates to differing types of property.

TABLE A.—SURVEY OF ACTUAL ASSESSING METHODS 1969

Taxing agency	Assigned by agency			Actual	
	Assessed valuation	Ratio of assessment (percent)	Fair market value	Assessed valuation	Ratio of assessment (percent)
(1)	(2)	(3)	(4)	(5)	(6)
Angelina County	$10.00	25	$40	$50.00	5.0
Lufkin Independent School District	(1)	30	(2)		
Diboll Independent School District	20.00	40	50	80.00	10.0
Hardin County	16.60	20	83	40.00	7.3
Silsby Independent School District	32.00	55	58	110.00	16.0
Lumberton Independent School District[3]	160.00	100	160	200.00	80.0
Hardin Independent School District:[4]					
Champion Paper Co	50.00	50	100	100.00	25.0
Kirby Lumber Co	70.00	50	140	100.00	25.0
Jasper County	12.50	10	125	20.00	6.25
Jasper Independent School District	23.00	25	150	50.00	11.5
Liberty County:					
A[5]	37.50	25	150	50.00	18.75
B	32.50	25	130	50.00	16.25
C	27.50	25	110	50.00	13.75
Liberty Independent School District:					
A	78.00	60	130	120.00	39.0
B	66.00	60	110	120.00	33.0
C	54.00	60	90	120.00	27.0
Nacogdoches County[6]	15.00	30	50	60.00	7.5
	12.00	30	40	60.00	6.0
Nacogdoches Independent School District	19.00	75	25	150.00	9.5
Newton County	14.50	[7]15 / 10	145	30.00	7.25
Newton Independent School District	23.00	33.33	69	66.60	11.5

[1] No flat rate used.

[2] Approximate.

[3] Lumberton Independent School District values much timberland according to higher residential use value. Figures here reflect values for lands remote from roads valued as timberland only.

[4] Hardin Independent School District rolls list these 2 major timber companies at different rates.

[5] Both Liberty County and Liberty Independent School District value timberlands according to good, fair, and poor quality.

[6] Nacogdoches County places rural acreage on paved roads on the rolls at $15 per acre and other rural land at $10 per acre.

[7] Newton County (illegally) applies a 10 percent assessment ratio to timberlands and a 15 percent ratio to all other property.

Table B: Estimated Revenue Lost through Faulty Valuation of Timberland (1969)

Column 1: *Taxing agency.*

Column 2: *Taxable acres of commercial forest land in agency's jurisdiction*—Figures for counties are those the Texas Forest Service reports in *Texas Almanac 1970-1971* (p. 138). The Silsbee Independent School District computes its own forest acreage.

Column 3: *County general tax rate per $100 assessed valuation*—This is the general county rate, not including other special taxes, such as hospital and road taxes.

Column 4: *Taxes agency could collect using accurate valuations*—Estimating full market value at $200 per acre, number of acres x 200 x assessment ratio x tax rate. $200 represents a conservative value estimate. Though some acreage would sell for less, much would sell for a great deal more. These sums include the general county tax alone. Special taxes for hospitals, roads, etc. are omitted; however, they are based on the same low assessment rates.

Column 5: *Estimated total taxes collected on timberland*—number of acres assessed valuation x tax rate. Where agencies used ascending scale of value for different classifications of land, this column employs the *highest* assessed values, making the estimated loss revenue (Column 6) extremely conservative.

Column 6: *Tax money agency lost in 1969*—Column 4 minus Column 5. Note again that these figures reflect very conservative estimates.

TABLE B.—ESTIMATED REVENUE LOST THROUGH FAULTY VALUATION OF TIMBERLAND 1969

[Amount of dollars]

Taxing agency (1)	Taxable acres of commercial forest land (2)	Agency's tax rate per $100 assessed value (3)	Taxes agency could collect on timberland (4)	Taxes agency did collect on timberland (5)	Tax money agency lost in 1969 (6)
Angelina County	359,900	1.00	180,000	36,000	144,000
Hardin County	501,600	1.20	240,000	99,900	140,900
Jasper County	541,800	.80	86,700	54,200	32,500
Liberty County [1]	453,600	1.20	272,200	176,900	95,300
Nacogdoches County [2]	400,400	.95	228,200	57,000	171,200
Newton County	557,600	[1] 1.00	167,030	80,900	86,400
Silsbee independent school district	80,000	1.85	162,800	47,360	115,440
Total					785,740

[1] Liberty County figures reflect the assessed valuation the county applied to the "fair timber" classification: $32.50 per acre.

[2] Nacogdoches County places rural acreage on the rolls at $15 per acre on paved roads and all other rural land at $10 per acre. This table uses the $15 value, making the figure in column 5 high and that in column 6 conservative.

[3] Newton County illegally applies the 10 percent ratio to timpberlands and the 15 percent ratio to all other property. Column 4 uses the 15 percent ratio while column 5 employs the 10 percent ratio.

Table C: Taxes Major Timber Owners Were Not Charged in 1969 Table C attempts to show more specific examples of tax loss than does Table B. It demonstrates how faulty assessing benefitted certain large timber owners at the expense of specific taxing agencies.

Column 1: *Name of company.*

Column 2: *Acres*—The total number of acres assessed at rural valuations that the agency's tax rolls list under the company's name.

Column 3: *Total taxes agency should have charged Company*—Assuming average market value of $200 per acre, assessed valuation, x number of acres x tax rate per $100 valuation.

Column 4: *Total taxes charged*—Number of acres x assessed valuation x tax rate per $100 valuation.

Column 5: *Taxes agency lost*—Column 3 minus Column 4. Note that these figures indicate tax revenue lost in 1969 alone.

TABLE C.—TAXES MAJOR TIMBER OWNERS WERE NOT CHARGED 1969

Area and company (1)	Acres (2)	Taxes company should have been charged[1] (3)	Taxes company was charged (4)	Taxes agency lost (5)
Angelina County:				
Champion-U.S. Plywood	56.91	$28.50	$5.70	$22.80
Owens-Illinois	78,828.05	39,414.00	7,882.80	31,531.20
Southland Paper Mills	14,715.40	7,358.00	1,471.60	5,886.40
Temple Industries	66,268.93	33,134.50	6,626.90	26,507.60
Total				63,948.00
Diboll Independent School District:				
Owens-Illinois	160.00	263.80	59.20	240.60
Southland Paper Mills	54.40	80.52	19.98	60.54
Temple Industries	32,851.00	48,619.48	12,154.87	36,464.61
Total				36,729.75
Hardin County:				
Boise-Cascade	14,565.42	6,991.40	2,861.11	4,130.29
Champion-U.S. Plywood	27,450.98	13,176.47	5,729.81	7,446.66
International Paper	3,211.68	1,541.61	616.60	924.81
Kirby Corp	127,094.00	61,005.12	26,687.00	34,318.12
Southern Neches	7,267.10	3,488.21	1,545.98	1,942.23
Southland Paper Mills	27,021.20	12,970.18	5,458.32	7,511.86
Southwestern Timber (Eastex)	137,219.81	65,865.51	26,352.28	39,513.23
Temple Industries	8,805.11	4,226.45	1,520.47	2,705.98
Total				98,493.18
Silsbee Independent School District:				
Kirby Corp	14,079.00	28,650.77	8,517.03	20,133.74
Southwestern Timber (Eastex)	85,887.98	119,837.02	35,216.41	84,620.61
Temple Industries	4,058.37	8,258.79	2,402.60	4,200.42
Total				108,954.77
Jasper County:				
Bleakwood Timber Co	24,561.69	3,929.87	2,259.40	1,670.47
Champion-U.S. Plywood	20,057.02	3,209.27	1,879.36	1,329.91
Jasper Timber Co	60,717.48	9,714.80	5,586.68	4,128.12
Kirby Corp	48,515.00	7,762.40	4,851.50	2,910.90
Roynolds-Wilson Lumber	5,838.35	934.14	534.52	399.62
Southland Paper	125.00	20.00	11.52	8.48
Southwestern Timber (Eastex)	91,352.43	14,616.39	8,516.96	6,099.43
Temple Industries	26,740.18	4,278.43	2,666.01	1,612.42
Total				18,159.31
Liberty County:				
Champion-U.S. Plywood	51,395.10	30,837.06	12,154.92	18,682.14
Kirby Corp	48,795.00	29,277.00	16,073.76	13,203.24
Owens-Illinois	1,835.25	1,101.15	481.20	619.95
Southland Paper	5,657.75	3,394.65	2,026.32	1,368.33
Southwestern Timber (Eastex)	11,518.19	6,901.91	2,952.84	3,958.07
Temple Industries	2,217.20	1,330.32	744.96	585.36
Total				38,417.09
Hardin independent school district:				
Champion-U.S. Plywood	4,879.42	8,343.81	2,983.29	5,360.52
Kirby Corp	17,134.00	29,199.14	20,521.35	8,777.78
Total				14,138.30
Newton County:				
Bleakwood Timber	31,269.20	9,380.76	4,534.03	4,846.73
Champion-U.S. Plywood	13,661.09	4,098.33	1,980.86	2,117.47
International Paper	18,258.17	5,477.45	2,647.43	2,830.02
Jasper Timber	66.39	19.92	9.63	10.29
Kirby Corp	124,930.00	37,479.00	18,114.85	19,364.15
Lutcher-Moore	52,472.96	15,741.89	7,609.08	8,132.81
Newton Timber	56,585.69	16,975.71	8,204.93	8,770.78
Owens-Illinois	2,441.53	732.46	354.02	387.44
Southwestern Timber (Eastex)	31,191.63	9,357.49	4,522.79	4,834.70
Temple Industries	51,296.38	15,388.91	7,437.98	7,950.93
Total				59,245.32

Area and company (1)	Acres (2)	Taxes company should have been charged[1] (3)	Taxes company was charged (4)	Taxes agency lost (5)
Newton independent school district:				
Bleakwood Timber	28,409.00	37,783.97	13,068.14	24,715.83
Champion-U.S. Plywood	8,344.00	11,097.52	3,838.24	7,259.28
Kirby Corp.[2]	48,820.00	64,930.60	23,433.24	41,497.00
Newton Timber	39,301.00	52,270.33	18,078.46	34,191.87
Southwestern Timber	22,685.00	30,171.05	10,435.10	19,735.95
Temple Industries[2]	7,000.00	9,310.00	3,360.00	5,950.00
Total				133,349.93
Nacogdoches County:				
Owens-Illinois	30,859.88	17,590.13	6,492.25	11,097.88
International Paper	45,554.15	25,965.87	5,506.78	20,459.09
Kirby Corp	9.00	5.13	.86	4.27
Southland Paper	2,945.40	1,678.88	359.77	1,319.11
Temple Industries	7,835.01	4,465.96	965.84	3,500.12
Total				36,380.47
Grand total[3]				607,816.16

[1] Tax roll entries often do not conform to tho rates taxing agencies claim to employ. These figures reflect these discrepancies.
[2] Some acres are rendered at $23 per acre and some at $24. This table employs the $24 per acre rate, making the figures in col. 5 a conservative estimate of loss.
[3] Taxes lost in 6 counties and 4 school districts.

COMMERCIAL AND INDUSTRIAL PROPERTY: HOUSTON AND HARRIS COUNTY, TEX.

Kim Quaile Hill

As is true in most states, the major source of revenue for local governments in Texas is the ad valorem tax. The taxing districts under study here are typical in this regard: Harris County receives 79 percent of all fund revenues from the ad valorem tax and Houston receives over 50 percent of all general fund revenues from this source. The significant undervaluation of some classes of property for purposes of ad valorem taxation, whether by design or assessment difficulties, not only distributes the tax burden unequally, but also deprives the citizens of many public services that could otherwise be provided with the additional revenue.

A major concern in regard to unequal tax treatment is the valuation of commercial and industrial property as compared with residential property. For various reasons the valuation of residential property is relatively simple: the number of transactions (sales) is high, sales prices are readily available, and depreciation techniques are simple. In many commercial property dealings, however, information is relatively restricted. Transactions tend to be fewer in number and sales price information is more difficult to acquire. Most large financial interests prefer that such information remain confidential. It is fairly common practice to avoid recitation of the entire consideration in deed records; furthermore, since the repeal of the federal documentary stamp tax (effective January 1, 1968), the only readily available source of market value documentation has been lost.

Another problem area in the assessment of commercial property is the difficulty in valuing commercial structures such as multi-story office buildings, refineries, pipelines, and factories as compared with valuing typical residential structures. Yet there are accepted techniques for handling such problems and professional tax appraisers should be able to appraise these structures just as readily as the smaller ones. This need for professional tax appraisers points up one of the major problems of property taxation in Texas; with 254 counties, over 800 incorporated municipalities, and over 1,000 school districts, the demand for qualified appraisers is great. Many of the individuals who fill this capacity for various jurisdictions throughout the state are hopelessly ill-suited for the task.

Recognizing that no prior published report has compared the assessment of various classes of property in the Houston area, this study compares the assess-

ment level of commercial and industrial property with that of residential property in the City of Houston and Harris County. The Tax Research Association (TRA) of Houston, a privately funded research group, has for 14 years made an annual study of the assessment levels of Houston, Harris County, and all other taxing bodies within the county. The results of the TRA's studies have shown assessment levels that are reasonably uniform and slightly below stated assessment levels for the major taxing units in the county. The City of Houston has deemed the TRA study sufficiently creditable to publish its results in the Annual Financial Report of the City Comptroller as indicative of the general assessment level for the city. The crucial flaw in the TRA study, however, is that 90 percent of the transactions on which it bases its studies are residential property sales. Consequently, the TRA study is not indicative of the general assessment level for all types of property. Yet it may be taken as an accurate reflection of residential property levels and it will be used as a point of comparison for the commercial property ratios developed in this study. Any wide disparity between the results of the TRA and those of this study should indicate failure to achieve tax equalization between the classes of property so represented.

In order to attain meaningful assessment ratios for commercial property this study had to face all the difficulties discussed above in determining market values in that area. With only one researcher utilizing limited time and funds it was necessary to select only certain types of commercial property. The choice of types was dictated partially by the availability of market value data and partially by the desire to represent several different types of property. As a result, three different samples were chosen generally representing two major types of commercial property.

The first sample was drawn from major exchanges of commercial property as reported daily in the *Houston Post*. These reports of noteworthy sales of office buildings, apartments, shopping centers, and major tracts of land usually give rounded dollar amounts for the exchange price as reported by the parties to the transaction or by "realty circles." After consultation with members of the real estate and legal profession and with an expert in the area of property taxation, it was determined that such reported prices were generally accurate within 10 percent. Thus a sample was drawn from all such reported sales as published in 1969 in the *Houston Post*. (Traditionally, assessment ratio studies utilize market value data from the last six months of the prior year compared with current tax valuations. Because this sample was drawn from the entire calendar year of 1969, some of the market values represented are older and lower than would ordinarily be used. The result of this difference is a conservative bias in the data that favors the position of the taxing authorities. In other words, this bias is directed toward higher percentage valuations than actually exist on the tax rolls.) Since most of these sales are customarily reported on Sunday, every such sale that was reported on a Sunday in 1969, that was located in Harris County, and that had a total consideration recited was used in the sample. In those instances where the reported information was incomplete or insufficient for positive identification of the property on the tax rolls, the items were omitted from the sample to resolve all doubts in favor of the taxing authorities.

The sample contains 40 items on the Harris County tax rolls and 28 items on the Houston city tax rolls. The assessment ratio was computed for each transaction, and total sales prices and total assessments were used to compute the overall assessment ratio. Harris County has a stated ratio of 22 percent of market value for tax assessments. The TRA study of residential property shows the county taxing at 17.96 percent of market value. The initial sample in the present study (Appendix A) shows an assessment ratio for commercial property of only 7.18 percent.

The City of Houston has a stated ratio of 40 percent of market value. Whereas the TRA study shows a ratio of 31.94 percent, the present study shows commercial property assessed at 16.81 percent of market value. Obviously these differences in assessment rates are quite marked for both taxing districts. *Commercial property in this sample is being assessed at a rate that is approximately half that used for residential property.*

The second sample contains property from industrial parks and districts in the Houston area. Such areas are planned locations for manufacturing, research, distribution, or other commercial operations. In effect, they are commercial property "subdivisions" with land sites, utilities, and railroad service suitable for industrial "homes." As the sample of major transactions reported in 1969 was dominated by sales of unimproved land, this sample is dominated by improved

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and developed land sites, representing a higher level on the spectrum of types of commercial property. The market values of land in these areas were derived from a report by the Houston Lighting & Power Company and the Houston Chamber of Commerce published in the April, 1969, issue of *Houston* magazine. Costs were given for land in each of 16 industrial parks with most parks reporting both the minimum and maximum cost per acre of land in their development. It is reasonable to assume that since April of 1969 (the date of the report) land costs in these areas have continued to rise; therefore, the use of the April, 1969, figures for comparing the valuation of all land in these parks is a reasonably conservative technique.

This sample (Appendix B) is composed of 45 items in both taxing districts. The values used are only for the land, although most of the items are improved. All of the land was valued at the minimum land cost figure as reported by the industrial parks. The result of this technique is to introduce a conservative bias into the data in favor of high percentage valuations. For Harris County the sample resulted in an assessment ratio of 10.74 percent (as compared with a stated rate of 22% and a TRA residential property rate of 17.96%). For the City of Houston the sample yielded a ratio of 13.94 percent (with the stated rate at 40% and the TRA rate at 31.94%). Once again the rates for industrial property are quite low; however, two factors make these results even more spectacular. Most of these values on the county tax roles represent increased valuations for 1970. Since these revaluations come only periodically, the degree of undervaluation is thus heightened, and the accuracy of this revaluation must be disputed. The second factor affecting this sample is the bias resulting from the sole use of minimum land cost figures. A similar valuation using only the maximum land cost figures resulted in even lower assessment ratios (for Harris County 7.37% and for Houston 9.57%). The true ratios should lie somewhere between the two extremes: for Harris County between 9.57 and 13.94 percent.

The third sample used in the study contains valuations of commercial property currently offered for sale. Most studies of assessment levels (and the first two samples in this report) utilize prior year cost information compared with current year assessed valuations. This final sample utilizes current asking prices for property offered for sale and current assessed valuations of that property. It does not represent actual underevaluation in the traditional sense, because next year's assessment could theoretically be increased to follow the actual sales prices. Such a comparison of asking prices with assessed values is, however, an indication of the ability of the taxing authorities to keep pace with rising property values. Some disparity between the two can be expected in the interim between transaction and reassessment, but a wide deviation indicates a notable lag in the ability of the taxing authorities to keep pace with current values.

Naturally it is not the intention of this study to equate the asking price of property with its market value; however, in a sample of sufficiently large size, there will only be a small discrepancy between the two. If the underassessment indicated by such a sample were small, it might be attributed to this discrepancy. If the indicated underassessment is quite large, it cannot be explained by this discrepancy but will clearly indicate the need for increased valuations in that area.

This sample (Appendix C) contains 22 items that were offered for sale during July or August, 1970. Using the asking prices as one would use actual market values in an assessment ratio study, the data yielded a 6.84 percent ratio for Harris County and a 13.01 percent ratio for Houston. This significant disparity is further evidence of the general underevaluation of commercial and industrial property as compared with residential property in the two taxing districts studied. Assuming that the significant undervaluation documented in Appendix A and Appendix B is a fair indication of the assessment levels throughout Harris County, it is fair to estimate underevaluation of commercial property at nearly 70% in the county and nearly 60% in the city. For industrial property the underevaluation is approximately 50% in the county and approximately 65% in the city.

The impact of this grave inequality in the sharing of the property tax burden goes far beyond the inordinate unfairness to the small taxpayer: it deprives the city and county governments of funds for pressing vital programs, such as air and water pollution control. It is regrettable that industrial discharges have passed on the costs of policing their wastes to the general public. Doubly inequitable is a valuation system that allows these same industrial polluters to avoid paying their fair share of the public expenditures needed to clean up the

dispoiled environment. The result of this abdication of public responsibility by the industrialists are clear. Houston public officials who have been hotly criticized by the state Water Quality Board chairman for failure to deal with the city's water pollution crisis claim that the tax dollars to finance the badly needed cleanup are simply not available. It is inconceivable that the citizens of Houston will tolerate the recurring annual loss of hundreds of thousands of dollars in tax revenue when that city has yet to initiate even a rudimentary water pollution inspection-enforcement program, and when other desperately needed social services continue unremedied.

RECOMMENDATIONS

To rectify the immediate problems of property tax abuse in Texas we make the following specific recommendations:

1. That Chairman Ben Atwell of the State Commission on State and Local Tax Policy discharge the legal responsibilities of his office and order an immediate investigation into the shocking illegalities disclosed in this report.
2. That a state board be established to hear taxpayer grievances, to recommend relief in the form of tax refunds when necessary, and to provide public lawyers to assist the complaining taxpayer.
3. That the practice of delegating the appraisal function to private firms be eliminated, and that the state provide the appraisal service to local taxing districts when requested.
4. That full disclosure of the precise formula used in property evaluations be made by all individuals and organizations performing the appraisal functions.
5. That a state board be created to pass upon the qualifications of the local tax assessors, and be given the power to remove such assessors for cause.

CONCLUSION

In nearly every state the property tax provides the overwhelming proportion of the revenue for our cities, counties, and school districts. But the serious inequality in valuations and assessments continues to deprive local governments of funds. The state of Texas, which is first among the states in oil and gas reserves, first in cattle, first in cotton, and first in livestock, is rated near the bottom of the list in its attention to the basic social services. This does not need to remain so. Property tax reform can bring millions in lost revenue.

A report released almost nine months ago alerted state officials to the substantial undervaluation of oil and gas property in the Permian Basin. This report has been ignored by Texas political leadership. In that report, the loss to the school district in one county alone as a result of undervaluation was shown to be nearly one million dollars a year for at least the last seven years. But despite the concern of that county's citizens, and the statement by the local County Judge that a "serious question had been raised" by the introduction of this evidence of undervaluation (Odessa American, June 30, 1970), the state government has remained indifferent and unresponsive. Just one day after the report's release, Speaker of the House Gus Mutscher hastily dismissed the report as "an unwarranted attack on one of Texas' leading industries." (Austin American, Jan. 31, 1970). And, when pressed by reporters, Representative Ben Atwell, Chairman of the Commission on State and Local Tax Policy, promised to make an investigation, but has yet to respond publicly to our letter of January 31, 1970. Chairman Atwell has kept curiously silent about a problem that squarely challenges the respectability of his Commission.

The findings of this latest report now clearly indicate that the inequality of valuation and assessment of property for tax purposes is not an abuse unique to the mineral interests, but is one that is characteristic of timber and commercial-industrial property as well. A projection of this pattern of undervaluation of timber land, for example, applied to the entire 37-county East Texas area, means the annual loss of approximately $38.4 million a year.

The implication here is great and national in scope: at a time when our cities are facing their greatest crises in history, the local governments can now respond immediately with "money in the pocket" that they never knew they had. Undervaluation of timber interests and undertaxation of corporate industries from oil companies to banks to insurance companies is not just a Texas phenomenon. It is a nationwide injustice that must be resolved as the first, fundamental step toward the solution to the critical problems of our local communities.

APPENDIX A—1969 REPORTED TRANSACTIONS

Description	Purchaser	Date	Price	County assessment: Total assessment	County assessment: Assessment ratio (percent)	City assessment: Total assessment	City assessment: Assessment ratio (percent)
1. 4 ac. fronting Chimney Rock and Ashbrook	William J. Morgan	Jan. 5	$175,000	$14,080	8.04	$65,930	37.67
2. Valley Forge Apts. (6525 Hillcroft) and circa 10 ac.	Kayvor Co.	Jan. 12	4,000,000	207,770	5.19	415,620	10.39
3. 6 ac. at Winrock and San Felipe	Lawrence Kagan, et al.	Jan. 19	650,000			124,700	19.18
4. 10.83 ac. at SW corner US 75 and FM 1960	Hyman Finger and Mrs. J. Oshman	Jan. 26	270,750	7,760	2.86		
5. Tract at Milam and Drew plus bldg.	LeCorp	Feb. 2	350,000	7,950	2.27	22,230	6.35
6. 129,000 sq. ft. at Airline and Lyerly	Nelson Mobile Homes	do	160,000	7,940	4.96	56,970	35.60
7. Northshore Motor Hotel at Rockglen and Northshore Dr.	Interstate Motor Lodges	Feb. 9	400,000	36,980	9.24	75,180	18.79
8. Apt. complex at Clarewood and Alder	Danny Dror	do	250,000	32,490	12.99	58,460	23.38
9. 84 ac. at Bissonnet and cook	Bissonnet Ltd.	Feb. 16	630,000	51,070	8.10		
10. 75 ac. fronting Huffmeister Road	Hyman Finger	Feb. 23	150,000	10,860	7.24		
11. 148 ac. north of Little York and N. Rossyln Rds.	Dan Kennerly, trustee	do	500,000	27,250	5.45		
12. 16 ac. 6000 blk Gulf Frwy.	RER Investments	do	675,000	41,090	6.08	198,080	29.34
13. 45 ac. on Bourgeois Rd., south of Champions Golf Course	Jacob Balich et al.	Mar. 29	200,000	13,920	6.96		
14. 9 ac. at Renwick and Elm	John Jamail	Mar. 23	400,000	13,800	3.00	72,310	18.07

15. Robinwood Motel, 7611 Katy Frwy	LaVergne, McCullough & Assoc., et al	do	450,000	69,170	15.37	134,910	29.98
16. Apt. complex at 800 Heights Blvd	Barry Bradley trustee	Apr. 6	420,000	23,670	5.63	41,930	9.98
17. Apt. complex at 811 Colquitt	Thomas Osmun trustee	Apr. 20	60,000	10,490	17.48	18,360	30.60
18. 198.5 ac. on Louetta Rd., north of FM 1960	Winston McIntosh, et al	do	600,000	58,500	9.75		
19. 40 ac. between Strack and Middlestadt Rds	Vann C. Wilson, Jr	May 11	165,000	10,560	6.40		
20. Shopping center at Holmes and Golfcrest	Harry Reed, et al	do	27,000	3,740	13.85	10,780	39.92
21. 265 ac. at Cypress-Rosehill and Juergen Rds	Land Equities, Inc	May 25	350,000	23,320	6.66		
22. 25,000 sq. ft. warehouse at 1112 Paige	RCA Transportation Co	do	100,000	22,850	22.85	41,360	41.36
23. 8.5 ac. at Greens Milner Rds	John R. Blocker, et al	June 15	212,500	4,960	2.33	5,300	2.49
24. 1.68 ac. in Sharpstown Center between Gaylynn Center and Goodyear Tire Co.	Richard Minns	do	250,000	24,220	9.68	20,220	8.08
25. 3410 Marquart Bldg	Glenn A. Merrill	July 13	150,000	19,800	13.20	35,600	23.73
26. 245 ac. fronting Westheimer and Buffalo Bayou	Friendswood Dev. Co	July 20	7,000,000	463,850	6.62	1,287,380	18.39
27. 30,000 sq. ft. at 18th and Mangum	J. S. Waldman, trustee	Aug. 10	120,000	7,860	7.27	12,470	6.92
29.[1] 4.5 ac. 8200 blk. of Park Place	Leon Constr. Co	Aug. 31	250,000	39,170	15.66	51,300	20.52
30. Apt. complex at 2516 Commonwealth	Milton Bludworth	do	260,000	46,429	17.85	63,110	24.27
31. Apt. complex at 1407 Missouri	Jack Howe	do	160,000	25,320	15.82	46,530	29.08
32. King Edward VI Apt., 7745 Long Point Rd	Enchanted Homes, Inc	do	400,000	65,210	16.30	119 120	29.78
33. 15.9 ac. at Brompton and Bellfontaine	Brompton Associates	Sep. 21	1,300,000	193,440	14.88	90,930	6.99
34. Jamestown Apt. 3600 Link Valley	Mel LaVergne	Sep. 28	1,600,000	57,110	3.56	104,390	6.52
35. 100,000 sq. ft. on south side of Westheimer, east of Chimney Rock	Diversified Bldg. Equities Inc	Oct. 5	500,000	37,730	7.54	58,970	11.79
36. 190 ac. on Freeman Rd. near Grand Parkway site	Robert E. Glaze	do	330,000	12,770	3.86		
37. 4141 Southwest Frwy Bldg	National Realty Investors	Oct. 19	1,000,000	100,010	10.00	351,390	35.13
38. 6 ac., North Belt Drive	Gene Russell, et al	Nov. 2	180,000	2,640	1.46		
39. 6 ac., North Belt Drive	Property Research Co	do	180,000	2,640	1.46		
40. 18 ac., East Houston-Dyersdale Rd., north of Tidwell	Sem Meineke et al	Nov. 9	120,000	4,630	3.85		
41. Shopping center at W. Holcomb and Kelvin	Texas Calculating Services Inc	Nov. 23	125,000	19,550	15.64	21,520	17.21
42. 66 ac. at Little York Rd., Northwest Frwy and Hempstead Rd	James Gustafson, et al	Dec. 7	1,100,000	15,650	1.42		
Harris County Totals (40 items)			25,570,250	1,838,249	7.18		
City of Houston Totals (28 items)			21,444,500			3,605,050	16.81

[1] Item No. 28 omitted.

APPENDIX B—INDUSTRIAL PARKS LAND

Description	Owner	Total land value	County assessment: Land	County assessment: Assessment ratio (percent)	City assessment: Land	City assessment: Assessment ratio (percent)
1. Tr 1a, blk 1, 0.295 ac., Ardmore Indus. Dist.	Milton Cooke	$19,275	450	2.33	2,180	11.30
2. Tr 1b, blk 2, 2.11 ac., Ardmore Indus. Dist.	Mail Well Envelope Co.	137,867	3,260	2.36	11,010	7.97
3. Tr 2, blk 2, 2.61 ac., Ardmore Indus. Dist.	Tom Tirado	170,537	4,020	2.36	13,570	7.95
4. Lt 1, blk 3, 2.81 ac., Ardmore Indus. Dist.	M. Lee	183,605	4,330	2.35	10,820	5.89
5. Lt 2, blk 3, 3.15 ac., Ardmore Indus. Dist.	do	205,821	22,000	10.69	12,120	5.89
6. Tr 1, blk 1, Sect. 1, 1.895 ac., Central Indus. Pk.	Santa Fe Land Imp. Co.	28,891	2,920	10.11	5,840	20.21
7. Tr 1a, 5.38 ac., blk 1, Sect. 1, Central Indus. Pk.	Gerald Hines	82,023	8,290	10.09	16,580	20.19
8. Tr 1, blk 2, 22.02 ac., Sect. 1, Central Indus. Pk.	Santa Fe Land Imp. Co.	335,717	33,910	10.09	67,850	20.20
9. Tr 1, blk 4, 26.83 ac., Sect. 2, Central Indus. Pk.	do	409,050	41,330	10.10	20,650	5.04
10. Tr 2, blk 2, 13.71 ac., Sect 2, Central Indus. Pk.	do	209,023	21,120	10.09	10,550	5.04
11. Tr 1, blk 5, 18.707 ac., Sect. 2, Central Indus. Pk.	do	285,207	28,810	10.10	14,400	5.04
12. Tr 2, blk 5, 10.129 ac., Sect. 2, Central Indus. Pk.	do	154,427	15,600	10.10	7,800	5.05
13. Tr 1, blk 7, 14.84 ac., Sect. 2, Central Indus. Pk.	Ceco Corp.	226,251	22,860	10.10	45,700	20.21
14. Tr 1, blk 8, 8.7 ac., Sect. 2, Central Indus. Pk.	Santa Fe Land Imp. Co.	132,640	13,420	10.10	26,850	20.21
15. Lt 1, blk 9, 18.29 ac., Sect. 2, Central Indus. Pk.	do	278,849	28,170	10.10	14,630	5.24
16. Lt 2, blk 9, 15.48 ac., Sect. 2, Central Indus Pk.	do	236,008	23,840	10.10	12,380	5.24
17. Lt 1, blk 10, 18.33 ac., Sect. 2, Central Indus Pk.	do	279,459	28,230	10.10	14,660	5.24
18. Tr 2a, blk 2, 1.73 ac., Sect. 1, Sharpstown Indus. Pk.	Baldwin Properties, Inc.	94,199	12,430	13.19	17,300	18.36
19. Pt blk 2, 7.78 ac., Sect. 1, Sharpstown Indus. Pk.	Robert T. Herrin	423,621	55,910	13.19	77,700	18.34

20. Tr 1b, blk 1, 1.62 ac., Sect. 1, Sharpstown Indus. Pk.	Richard J. Simmonds	88,209	18,610	21.12	16,180	18.36
21. Tr 1c, blk 1, Sect. 1, 1.54 ac., Sharpstown Indus. Pk.	Baptist Foundation of Texas	83,853	17,740	21.12	15,430	18.36
22. Lt 1, blk 1, 4.64 ac., White Oak Park	Hines Baker, Jr.	171,680	15,280	8.90	29,110	16.96
23. Lt 2, blk 2, 7.29 ac., White Oak Park	do	269,730	24,060	8.91	34,040	12.61
24. Lt 3, blk 1, 8.90 ac., White Oak Park	do	329,300	29,350	8.91	51,010	15.49
25. Lt 2, blk 1, 7.29 ac., White Oak Park	Overmeyer Warehouse Co.	269,730	(1)	0.00	34,090	12.61
26. Tr a, blk 1, 9.32 ac., Gulf Port Indus. Pk.	Std. Southern Corp.	304,391	30,760	10.10	29,820	9.79
27. Tr c, blk 1, 2.29 ac., Gulf Port Indus. Pk.	Vantage Property Co.	74,791	17,668	23.60	7,340	9.80
28. Tr d, blk 1, 3.85 ac., Gulf Port Indus. Park	Vantage Property Co.	125,741	13,837	11.01	12,300	9.79
29. Tr a, blk 1, 1.36 ac., Gulf Port Indus. Pk.	Std. Southern Corp.	44,418	4,490	10.09	4,360	9.80
30. Tr b, blk 2, 10.50 ac., Gulf Port Indus. Pk.	do	342,930	34,630	10.10	33,580	9.79
31. Trs 2m, 2a, 4.86 ac., D. White Sur., A-877, Houston Indus. Dist.	Houston Light & Power Co.	58,320	6,410	10.98	3,580	6.13
32. Tr 3b, 3.0 ac. (city has 3.5 ac.), Houston Indus. Dist.	Western Co. of North America	36,000 / [2] 42,000	3,960	9.42	2,700	6.42
33. Tr 3, 4.75 ac., Houston Indus. Dist.	American Steel Bldg. Co.	57,000	6,270	11.00	4,390	7.70
34. Tr 13, 5.0 ac., Houston Indus. Dist.	Dowell Div. of Dow Chem. Co.	60,000	6,600	11.00	4,620	7.70
35. Tr 31, 9.28 ac., Houston Indus. Dist.	Houston Indus. Dist., Inc.	111,360	6,130	5.50	7,150	6.41
36. Trs. 11, 1j, 1k, blk 1, 1, 8.56 ac., Wynnwood Park	Loop Parkway Dev., Inc.	409,339	56,470	13.80	85,570	20.91
37. Tr 1a, blk 1, 2.07 ac., Wynnwood Park	Wynnwood Property Co.	98,987	13,640	13.80	20,660	20.91
38. Tr 1f, blk 1, 4.8 ac., Wynnwood Park	Southern Warehouse Corp.	229,536	31,860	13.80	48,270	20.91
39. Tr 1h, blk 1, 1.19 ac., Wynnwood Park	Wynnwood Property Co.	56,906	7,880	13.80	11,940	20.91
40. Tr 1e, 4.32 ac., blk 1, Wynnwood Park	Southern Warehouse Corp.	206,582	28,490	13.79	43,170	20.90
41. Tr 1d, 7.0 ac., blk 1, Brookhollow Sect. 1	Deluxe Check Printers	350,000	53,900	15.40	70,000	20.00
42. Tr 1h, 2.0 ac., blk 1, Brookhollow 1	Prince Medical Dental	100,000	13,200	13.20	20,000	20.00
43. Tr 1k, 25.82 ac., blk 1, Brookhollow 1	Humble Oil Ref. Co.	1,291,000	140,990	10.91	258,250	20.00
44. Tr 1e, 1.25 ac., blk 1, Brookhollow 1	Jones-Chambers Property, Ltd.	62,500	9,650	15.39	12,530	19.99
45. Tr 2a, 3.62 ac., blk 2, Brookhollow 2	Koscot Dist. Center	181,000	30,620	16.90	36,230	20.00
Harris County totals (45 items)		9,305,773	999,885	10.74	1,298,910	13.94
City of Houston totals (45 items, difference in item 32)		9,311,773				

[1] Not on tax roll.

[2] City.

APPENDIX C.—CURRENT OFFERINGS

Description	Owner	Asking price	County assessment: Total assessment	County assessment: Assessment ratio (percent)	City assessment: Total assessment	City assessment: Assessment ratio (percent)
1. Lts. 7, 8, blk. 5, West Heights	Wayne Smith	$50,000	$6,140	12.28	$8,700	17.4
2. 1.418 ac. in Eicke S/D, BBBC Ry Survey, A-173	George Echols	162,012	4,110	2.53	16,290	10.05
3. 0.77 ac. in Halff S/D	H. Peebles & M. Hanovice	78,200	970	1.23	2,080	2.65
4. Lts. 10 and 11 Validale Gardens	H. R. Howell	34,830	740	2.12	2,040	4.85
5. 14.02 ac., D. White Sur., A-878	Peter Tomas & Kaphan's Restaurant	776,800	50,680	6.52	87,720	11.29
6. 100.347 sq. ft. in tr 157, South Houston Gardens 6	Hally R. Moseley, et al	127,347	6,850	5.37	8,240	6.47
7. Lts. 1 to 3 pts. of 4, 11, 12, Southmore 1, Outlot 110	J. Mullane & S. Vester	80,000	2,870	3.58	20,560	25.70
8. Lts. 5, 6, 7, 9, 10, Burnett Annex of Settegast Upham	Klein Associates	175,000	5,380	3.07	39,880	22.78
9. 4.3115 ac. at Diacans and Bissonnet, A.C. Reynolds Sur., A-61	D.J. Dinkins	400,000	39,660	9.91	91,640	22.91
10. 4.94 ac. on Laura Koppe Rd., A. Daly Sur., A-239	R.J. Boggus & A.E. Pavey	86,115	5,140	5.96	10,160	11.79
11. 23,895 sq. ft. in Sharman Tract, J. Austin Sur., A-1	Julius Settegast	43,011	1,210	2.81	900	2.09
12. Pt. of lts. 1 and 3, blk. 3, Yale St. Acres 2nd	Richard Stewart	32,656	3,020	9.24	4,840	14.82
13. Lts. 4, 5, 8, pt. of 9, 11, blk. 3, Holman Outlot 31	A. C. Ray	157,500	27,860	17.68	41,910	26.60
14. Lts. 11 and 12, 2 ac. in Weber Acres	Ellen Stewart	108,900	2,380	2.18	4,200	3.85
15. 1.5 ac. in S.W. Allen Sur., A-94	Tilson Built Lumber Co.	100,000	11,750	11.75	14,600	14.60
16. Lts. 1, 4, 5, 6, 7, 8 in blk. 25, Institute Place of P.W. Rose Sur.	Mrs J. O. Davis	261,360	7,800	2.98	9,330	3.56
17. 1.5 ac. out of tr. 49, HT&B Ry, Co. Sur., 6, A-1350	L.E. Hamilton, et al	81,250	1,980	2.44	1,412	1.74
18. 39,730 tr and 10,200 sq ft warehouse, Industrial Park S/D, blk 1, Lt 7 and pt 8	Miller Brothers Floor Co.	62,500	10,920	17.47	18,870	30.19
19. 3.5 ac. fronting Richmond and Kirby, A. C. Reynolds Sur., A-61	Texas Louisiana Corp.	775,000	83,220	10.74	139,490	18.00
20. 3.75 ac. Fulton at Berry, P. Janowski Sur., A-975	T. Schutz and Mrs. B. Taylor	125,450	7,660	6.10	13,020	10.37
21. 53,522 sq. ft. on Shepherd near Pinemont, S.W. Allen Sur., A-94	Percy Turk & Assoc.	107,044			15,800	14.76
22. 7.63 ac. at S. Loop 610 and Mykawa, C. Goodrich Sur., A-306	Goodrich Sur., A-306	630,000	16,790	2.67	27,790	4.41
Harris County totals (21 items)		4,348,032	297,130	6.84		
City of Houston totals (22 items)		4,455,076			579,472	13.01

Material Supplied by Other Than Witness

FROM SENATOR MUSKIE

October 14, 1971.

Commissioner J. E. LUCKETT,
Department of Revenue,
Frankfort, Ky.

DEAR COMMISSIONER LUCKETT: Thank you for your letter of October 12, responding to the comments Mr. Nader made on Kentucky's property tax administration when he testified before Senator Mondale's Select Committee on Equal Educational Opportunity.

I have forwarded a copy of your letter to Senator Mondale for his information.

As you may know, the *Kentucky Law Journal* recently published a symposium on the property tax and honored me by including an Introduction I prepared for the symposium. In the Introduction, I noted the high rating Kentucky had received from the Advisory Commission on Intergovernmental Relations with regard to the property tax. You and the other public officials in your state can be proud of the Advisory Commission's appraisal of your efforts.

With best wishes, I am

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator.

COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF REVENUE,
Frankfort, Ky., October 12, 1971.

Hon. EDMUND S. MUSKIE,
Chairman, Senate Subcommittee on Intergovernmental Relations, Old Senate Office Building, Washington, D.C.

DEAR SENATOR: In recent testimony before the Senate Select Committee on Equal Educational Opportunity, Mr. Ralph Nader cited Kentucky as a bad example of administration of property taxes, according to a newspaper story appearing in the Courier-Journal, Louisville, Kentucky, October 1, 1971.

As chairman of the Senate Subcommittee on Intergovernmental Relations, I thought you would be interested in getting the facts on the allegations about Kentucky property tax practice; therefore, I enclose a Xerox copy of the reported Nader statement and my comment reported in the same paper October 7, 1971.

It is unfortunate that Mr. Nader did not check his facts more carefully, or update them. There is a difference between conclusions drawn from partial and outdated information and conclusions drawn from total information systematically prepared and current. The Kentucky Department of Revenue, which supervises the county valuation of property, is totally committed to sound tax administration and welcomes an opportunity to set the record straight.

Insofar as valuation practice is concerned, the U.S. Census reported Kentucky with the highest average assessment level of any state for 1966 and we think their current (1971) survey when completed will show a similar ranking. Moreover, the Advisory Commission on Intergovernmental Relations has reported that Kentucky is one of the few states that has made notable improvement toward uniformity and equity in the valuation of property for taxation. For your information, Dr. John Shannon, Assistant Director, ACIR, is familiar with Kentucky policies and can offer an objective view of the situation.

As for the Nader allegations, we invited the reporter for the Courier-Journal to come to the department and look at all the facts. The results speak for themselves in his story.

Sincerely,

J. E. LUCKETT,
Commissioner of Revenue.

Enclosures.

[From the Courier-Journal, Louisville, Ky., Oct. 7, 1971]

KENTUCKY REVENUE CHIEF REBUTS NADER ON TAXES

(By Don Walker)

FRANKFORT, KY.—State Revenue Commissioner James Luckett yesterday issued a point-by-point rebuttal of consumer crusader Ralph Nader's charges before Congress that some coal and commercial properties in four Eastern Kentucky counties get off easy when property taxes are assessed.

Also using a version of "Candid Camera," Luckett relied on aerial-photo maps which, he said, back up the integrity of acreage listings on the tax rolls.

The four counties named by Nader are Pike, Knott, Bell and Harlan. Luckett said the aerial photos have proved "amazingly accurate" in 65 Kentucky counties in which the mapping program has been completed.

In an interview this week, the commissioner zoomed in on Pike County and said a photo map indicates that the county apparently was "overlisted" rather than severely shorted in propery listings as Nader had charged.

Nader told a Senate committee in Washington last week that local property tax assessors throughout the nation often underassess property of commercial and coal interests and sometimes fail to put it on the tax rolls at all.

An aide to Nader later acknowledge that specific charges about Kentucky counties were based not on personal investigation but on published reports, particularly a National Education Association (NEA) commission's report in May.

The NEA commission held education hearings in Kentucky earlier this year.

Luckett asserted that Nader's criticism is "just plain without foundation . . . It's unfair to make (such) statements without some personal verification of what the facts are."

Claiming that property assessment in Kentucky is "of exceptionally high quality compared with (assessments in) any state," Luckett fired his verbal barrage against Nader in an attempt to refute, point by point, examples Nader used to bolster his criticism.

Nader said that in 1967, 40 to 60 per cent of Pike County's land was either underassessed or not listed on tax rolls.

In fact, declared Luckett, "there may have been an overlisting." Aerial photos of Pike County in 1969 revealed there was slightly less nonurban acreage in the county that was on the 1966 rolls. The photo map found 413,344 acres compared with 424,268 acres that had been estimated to exist by the county property valuation administrator, Luckett noted.

Nader said Elkhorn Coal Corp. had been paying county property taxes of less than 22 cents an acre on Knott County coal rights under development by National Steel Co. Nader claimed it was expected that 1,250,000 tons of coal a year would be mined from the holdings.

RIGHT SHARED BY TWO FIRMS

Lackett and two if his staff members said the mineral rights actually are shared by Elkhorn and Consolidated Coal Co., and they estimated that the firms have been paying "closer to 40 cents an acre in property taxes."

The officials noted that Elkhorn owns approximately 15,000 acres of mineral rights in Knott County assessed at $582,534, and Consolidated owns 8,500 acres

of mineral rights in Knott. Portions of these tracts make up a proposed mine which Consolidated is developing jointly with National.

Consolidated's property, including mineral rights and equipment at the uncompleted mine, was assessed at $2.5 million as of Jan. 1, continued Luckett.

Nader charged that the Tennessee Valley Authority (TVA) owns 8,800 acres of "extremely rich coal land" in Bell County and, since no taxes were paid by the former owner, TVA is paying none.

Luckett says TVA acquired the 8,800 acres after a former owner, who paid $5,000 for the mineral rights in the 1940s, defaulted on a contract to produce coal for TVA.

"The mine proved to be worthless under present day mining conditions because of a drainage problem," said Luckett.

TVA values what Nader called "this extremely high coal land" at $8,153, he added. Under federal law, TVA makes in-lieu-of-tax payments equal to taxes previously paid by owners of land. Apparently, TVA could not make such payments legally if no taxes were paid previously, noted Luckett.

Nader charged that U.S. Coal and Coke, a subsidiary of U.S. Steel, in 1966 paid only $84,500 in property tax in Harlan County on two producing mines valued at $9.8 million.

Luckett said the $84,000 represented state and county taxes only, and that when school property taxes were added, the company paid $148,520 in property taxes in 1966. Since 1966, the company's assessment has been adjusted upward from $9.8 million to $10.4 million and it paid $175,659 in taxes this year, it was noted.

Mineral rights assessments, like other property valuations, are revised about every five years to reflect current market values, the officials said.

Pike County undeveloped coal rights, for example, were assessed on a range of $25 to $200 an acre. But it is proposed that the 1972 assessments be revised to reflect a current market value of $50 to $20 per acre, said Luckett.

DIFFICULTY IS ACKNOWLEDGED

The commissioner acknowledged that judging the value of unmined coal is "a more difficult assignment" than normal property valuation. Critics often fall into difficulty because they do not understand the variables that affect the value of untapped minerals, he maintained. These variables include the type of coal seams, location and accessibility, and whether—or to what degree—the seams can be mined, the commissioner noted.

Zone maps have been drawn of 12 Eastern Kentucky counties showing the value ranges of undeveloped coal rights according to the variables involved, said Luckett.

These zone maps—not aerial photos—are prepared by state Revenue Department geologists with advice from local property value administrators and, sometimes, with help from other knowledgable persons, Luckett said. These maps which are revised periodically, serve as the official assessment guides for coal rights, he said.

Also, said the commissioner, owners of coal rights are required to pay a property tax premium when the coal is mined.

"Each year the number of acres mined in the preceding year is valued for current assessment and a comparable acreage is (newly) listed as 'developed coal' to reflect a current market value of $50 to $200 per acre, said Luckett.

'MISLEADING COMPARISON'

Under questioning, the commissioner conceded that raw figures might be interpreted as giving coal rights a relatively lighter assessment in comparison with farmland.

For example, the $25-to-$200-an-acre range on potentially rich coalfields in Pike County compares roughly with the tax values set on just poor-to-fair farmland in the state, and the best farmland might be assessed at from $400 to $1,000 an acre, the commissioner acknowledged.

"But this is a totally misleading comparison without calling attention to the fact that literally millions of dollars must be spent to recover the coal—otherwise it has no value whatsoever," he said. "These expenditures must include not only mining but other facilities such as rail to open up the market," said Luckett.

Also coal valued at $25 or more an acre may lie for 50 years and never be touched, but the taxes at the assessed value continue, he said.

AERIAL-PHOTO MAPPING CONTINUES

Luckett said the aerial-photo mapping of the state continues at a slow but steady pace. In addition to the 65 counties already mapped, six projects are in progress, another is under contract and 13 counties have requested aerial maps.

The state bears the full cost of the mapping—$250,000 was appropriated for the purpose this biennium—but county fiscal courts must request a map. And the county government must promise to use the map in its assessments.

Luckett said that the photographing, which includes pictures of principal buildings on all property, has uncovered major assessment shortages in only one county so far. This was in Marshall County in 1957, and a large number of new homes on Kentucky Lake were found to have escaped assessment, the commissioner said.

[From the Courier-Journal, Louisville, Ky., Oct. 1, 1971]

KENTUCKY TAX ASSESSORS TOO LAX, NADER CHARGES

(By Leonard Pardue)

WASHINGTON—Crusader Ralph Nader attacked the way state and local governments administer property taxes yesterday, and he cited Kentucky as a bad example.

Nader charged that at least $7 billion a year in property tax revenues nationwide aren't being collected by state and loval governments because of tax administrative practices.

His chief criticism was that local property tax assessors frequently under assess the value of property owned by major industrial and commercial interests, and in some cases fail to put it on the tax rolls at all.

Under assessment "has literally starved the schools in Appalachia," Nader said in testimony before the Senate Select Committee on Equal Educational Opportunity. The committee's inquiry into the subject had led to an appraisal of finances as one cause of lack of equal opportunity. School systems are heavily dependent on property taxes for revenue.

Nader gave these Kentucky examples to bolster his argument:

In Pike County in 1967, 40 to 60 percent of the county's land was either under assessed or not listed on assessment rolls, according to a fact-finding team appointed by the County School Board, Nader said. Yet that year the school system had a $113,000 deficit.

In Knott County, National Steel Co. is developing a mining complex including a tipple and preparation plant on 14,200 acres of coal land, and the operation is expected in produce 1,250,000 tons of coal a year. A railroad line is being built to serve the operation. Yet the owner of the land, Elkhorn Coal Corp., has been paying county property taxes of less than 22 cents an acre," Nader said. He did not cite the source of these figures.

In Bell County, the Tennessee Valley Authority acquired title to 8,800 acres of "extremely rich coal land" for which it was required to pay normal property taxes for the first three years of ownership. TVA got the land when a supplier defaulted a coal contract. But since the land hadn't ever been listed as appraised by the tax assessor, no taxes had been paid by the former owner and TVA is paying none, Nader said. He cited Whitesburg attorney Harry Caudill as his source.

In Harlan County, U.S. Coal and Coke, a subsidiary of U.S. Steel, in 1966 paid only $34,500 in property tax on two producing mines valued at $9.3 million, or about one-tenth what it would have paid in some other states, Nader said.

"Throughout Appalachia, the story is the same," he said. "The people are poor, the schools are poor, but the owners of coal land enjoy a property tax field day."

It was learned after the hearing from a Nader aide, James Rowe, that Nader had not conducted his own investigations of the specific Kentucky counties mentioned. Rowe said the sources of information for the Nader testimony were previous published reports and earlier testimony by others at hearings conducted in Kentucky by the National Education Association.

Nader also cited instances in Texas and Maine—where Rowe and Nader has conducted investigations—and in Indiana and Minnesota to support his view that there exists a national pattern of property-tax favoritism toward commercial and industrial interests.

Listing an Indiana example, Nader said that in Gary, Ind., where the schools face a $9 million deficit, U.S. Steel "has been stronger than Gary's property tax." State law allows industry to present their own assessments to the local tax-assessor who is then supposed to check the figures. But U.S. Steel, Nader said, refuses to open its books to the assessors for such checks.

Nader said that local taxpayer groups in various parts of the country are more and more frequently organizing to seek property tax reforms, which he called "The No. 1 political issue at the local level for middle-class Americans."

Sen. Walter Mondale, D-Minn., the committee's chairman, agreed with Nader's charges of property-tax abuse. "I think that picture is almost beyond dispute," Mondale said.

In response to questions, Nader said he had no reform proposals beyond urging uniform application of the property tax by state and local governments. He also said the federal government might encourage this by insisting on fair property-tax practices as a condition of federal aid.

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Reslicing the School Pie

John E. Coons, Stephen D. Sugarman, and William H. Clune III

State systems of taxing and spending for elementary and secondary education tend to combine misery and mystery in equal parts. Historically, the school money debates have been dominated by specialists on such complex questions as "subvention," "overburden," and "equalization formulas," effectively insulating the institution from the scrutiny of its victims. Today, however, in what may be the last shot in the skirmish on poverty, school finance is finally receiving serious public attention:

> ITEM. President Nixon has appointed a School Finance Commission. ITEM. The Supreme Court has twice in the past two years been asked to strike down as unconstitutional the methods by which public education is presently financed; it has not foreclosed the question, and may be forced to face the issue directly in its next term. ITEM. Governor Milliken of Michigan has proposed shifting from a shared state-local school finance arrangement to an essentially state funded one. ITEM. The Office of Economic Opportunity has announced its willingness to sponsor experimental tuition voucher programs; Governor Reagan of California has commented favorably on one form of the voucher plan. ITEM. Governor Rockefeller of New York has appointed a blue-ribbon commission to make a comprehensive examination of the quality, cost, and financing of elementary and secondary education for the coming decade.

All this may stimulate a large yawn; yet there may be surprises in store. A variety of hostile forces are beginning to converge on the old system. Lawyers, educators, and social scientists increasingly score the unfairness to students and taxpayers of our reliance upon local property taxes; voters (allegedly property owners) reject local bond issues, budgets, and property tax overrides at an alarming rate; striking teachers demand an even higher priority for education on our list of national commitments; school districts reluctantly shorten the school year because of the money pinch; Catholic schools either close or stagger along, praying with their public counterparts for a governmental [illegible]

The writers are all lawyers and the authors of Private Wealth and Public Schools *published by Harvard University Press. Mr. Coons is professor of law at the University of California, Berkeley; Mr. Sugarman is an associate with O'Melveny and Myers, Los Angeles; and Mr. Clune is a member of the Illinois Bar and Legal Counsel and research associate at the Illinois Institute for Social Policy.*

that will keep parochial pupils from landing in the overburdened public schools.

Ironically, this tumult comes as leading educational critics proclaim the utter irrelevance of current schooling, especially in our cities. The system is not diseased, they say; it is a corpse that more cash will simply cosmetize. Their hope —if hope they have—is integration, is accountability of teachers, is individualization or technology; it is not money. Even many of the most radical structural reformers, decentralizers, and political participators decline to engage seriously the question of economic support for their enterprises. Their know-nothing attitude is, to an extent, pardonable; financial reform will not itself revitalize education, and its pursuit lacks the allure of public combat over more visible and glamorous objectives. Regrettably, it is a precondition to improvement of any sort whatsoever.

Villains and Victims However, even the idea of financial reform in education is as confused as the rhetoric of equal opportunity that confounds the debate. Lest we sin ourselves, an initial clarification is indicated. The issue is not quantity. Even conceding the onus of guilt borne by a curmudgeon federal government, *the critical need in school finance is not simply for more money*. The fundamental evil of the present system is reliance upon *local property taxation of unevenly distributed property wealth*. This is not so complex a matter as sometimes it is made to appear. Simply put the tragedy involves two villains and two victims, all four of which typically inhabit school districts with low property wealth per pupil. The villains are higher tax rates for education and lower spending in schools; the victims are the children and those who bear the taxes for their public schools.

Consider this example from Los Angeles County in California. Michael, a fifth grader, lives in the Walnut elementary district; in 1968-69 the cost of his public education was $500. His friend, Robert, lives in the Keppel elementary district; in that same year his fifth grade spent $786 per pupil. Each boy's family has the same income and owns a home of the same value (market and assessed). Michael's house is taxed at 3.28 percent of assessed valuation; Robert's at 2.33 percent. The California "system" thus provides substantially fewer school dollars for the children of those in the Walnut district who pay the higher tax rate. The example chosen is conservative. It is typical of our states.

Disaster of Form The historical parent of this prodigy is the rough compromise that emerged from the struggle after 1850 between the public school enthusiasts and their individualist opponents. The victory of the schoolmen was never complete; education was made compulsory and universal, but the principle of state responsibility was never clearly

accepted. Instead, the local community became the foundation of "public" education, a result which tempered individualist fears of a monolith, making the enterprise politically possible. In an agrarian economy with a fairly uniform distribution of wealth within most states, this parceling out to local units of the new duty to educate might have been seen as tolerable to both sides. After another quarter century of economic change, the nightmarish reality began to surface. What the individualist had surrendered in the establishment of public education was beyond recall; what the reformers had bargained for in equality had become a casualty of the industrial revolution.

By 1900, the clustering of wealth in urban foci already was well under way. Then, as now, school districts in most states depended for their principal support upon the power delegated to them to tax the value of real property located within their boundaries. As the disparities in taxable wealth widened among communities, education prospered in some districts and foundered in others for reasons unrelated either to local need or local enthusiasm. Balkanization of education had come to mean good schools in the rich cities and the virtual collapse of many rural districts. Public education has never recovered from this original disaster of form. The identity of rich and poor districts shifts and changes with time; in some cases cities favored through the first half of this century may now face the problem of corporate poverty. But for town and country alike the iron rule of the system is unaltered: the dollars spent for a child's education are a function of the wealth of his school district. Today in some states the taxable wealth per pupil in the richest districts is 100 times the wealth in the poorest.

State "equalization" programs of aid to poor districts have been the typical twentieth century response to this problem. From state to state there is considerable variation in these devices whose details are impenetrable to the amateur and deserve no attention here. Their principal effect is anesthesia for the outrage of the victims. State support for poor districts is made highly visible and thus politically effective in tranquilizing local indignation. However, the notion that the districts have been "equalized" is transcendent fiction. So far from reality is it that in California, Wisconsin, Illinois, and elsewhere millions in "state aid" have been identified which, under existing legislation, actually benefit only the wealthy districts. This aid is a bonus for being rich! The consequence of the system is disparity in spending, which in California districts ranges from well below $500 to $3,000 per pupil.

Seeing this helps to explain the durability of the local property tax despite the predictions and imprecations of politicians, property owners, journalists, and others prone to discover taxpayer revolts. Plainly, it survives because it is the basis of a highly effective system of privilege. Communities that enjoy high property values per pupil, either because of the presence of wealthy residents

or of industry, can have good schools (and other municipal services) for a cheaper tax rate than their poorer neighbors. Such communities and their residents have a strong interest in preserving the discrimination.

The benefited class is a peculiar one: it is not distinguished simply by personal wealth. Rich families sometimes live in districts poor in taxable wealth, while some of the richest districts are industrial enclaves inhabited largely by blue collar or poor families. Overall, however, there appears to be a correlation between personal wealth and district wealth, and it is the children of the poor living in poor districts who are the most poignant victims. These families cannot afford to move or to choose private schools. By and large they are white families, at least in the North. Minorities tend to cluster in larger cities near or somewhat above average in wealth. This is not to say that such minority children are never victims of fiscal discrimination *inside* their district of residence, though that particular swindle itself is beginning to decline.

The problem, then, is not vicious motivation or conspiratorial purposes, but merely wild and arbitrary imposition of privilege and deprivation according to the accident of district wealth. The evil is blindly structural in the most primitive sense that the state has created a discrimination machine. Districts above the median in wealth naturally resist change, and they are politically vigorous; districts of roughly average wealth have no clear stake in reform and are apathetic or even turned off by the centralist rhetoric of most of the reformers. Only poor districts would clearly benefit, and their historic failure to move the legislatures is not surprising.

Judicial Intervention Ironically, this chronic political impotence of the victims itself may assist reform by sanctioning judicial intervention. It is not fanciful to describe the projected relief for children of poor districts as another rescue of a (literally) disenfranchised minority. Who but the Supreme Court could brake this machine so insulated from ordinary majoritarian politics?

However, seen as a constitutional issue for the court under the Equal Protection guarantee, the matter becomes complex. Three pointed problems of judicial role threaten to bar even threshold examination of the problem. First, to be effective in dealing with any issue of this magnitude, the Court must be able to articulate a clear and principled basis for condemning the system. The principle must permit reasonably accurate prediction of future decisions involving a variety of possible legislative responses. Second, sensitive to its nonelective and antimajoritarian character, the Court should shrink from imposing a uniform system upon the states. Its primary objective should be not to bind but to loose the legislatures from the existing log jam, sparing whatever is tolerable in the old order and permitting a wide variety of new state systems. Third, the

Court will need confidence that its will can be enforced. However, the first is the key to all; the primary concern must be the discovery of a satisfactory standard by which to judge state systems. So far it is the failure of litigants to offer such a standard that has alienated the judges who have spoken on the issue.

Until this year two cases had reached the Supreme Court, one each from Illinois and Virginia. The three-judge federal panel in Illinois dismissed for lack of "discoverable and manageable standards" a suit which asserted a duty of the state under the 14th Amendment to spend for each child according to his individual needs. The Supreme Court affirmed without argument or opinion, and with but one dissent. Except for an additional dissent a similar complaint in the Virginia case met an identical fate in the following term of the high Court. Counsel in the several remaining cases are seeking a standard that will pass judicial muster and yet be effective. The problem is urgent, as crucial cases in California and elsewhere proceed to their final disposition. Thus far, the Court appears to have kept an open mind. A recent appeal in a school finance case from Florida presented an opportunity to seal off debate on the issue. Instead, the Court sent the case back for trial. This leaves the final judicial answer perhaps a year or more away.

The difficulty in this quest for principle is illustrated by the disunity of the critics, some of whose proposals have bordered on the extreme. For example, one formula—an analogy to the one man-one vote rule—asserts a duty to spend equal dollars per child throughout the state. The federal judges in the Illinois suit declared this "the only possible standard" and then rejected it. Only die-hard egalitarians would quarrel with the court's assertion that a rule forbidding compensatory spending is the last thing we need. What then of the "needs" formula proposed by the Illinois and Virginia complaints? The primary flaw in such a standard is that it is really not a standard at all; indeed, it is the replacement of all standards by the purest nominalism, each child bearing his own "rule." This approach may be satisfactory for educational philosophers; its appeal to judges is less obvious. Finding and enforcing the dollar rights of each child according to his needs (whatever that may mean) is not an activity in which courts will be eager to engage.

Two other formulas contending for scholarly and judicial attention at least can claim status as bona fide principles. Each is simple and is cast in the negative—that is, as a proscription of particular state action, thus avoiding the problems raised by insisting upon a duty of specific legislative behavior. Under *Proposition One* the state would merely be forbidden to permit variations in district or family wealth to affect spending per pupil. *Proposition Two* would agree but would add a prohibition against variations in the number of dollars spent on any child by virtue of his place of residence. This difference is highly significant. *Proposition Two* (Professor Arthur Wise) is a centralizing prin-

ciple satisfied only by statewide standards for spending. *Proposition One* would permit local decision resulting in the spending of more or fewer dollars per pupil from one unit to another, so long as those variations in spending are not in any degree the consequence of variations in wealth.

Together these two propositions draw the line of battle between the centralists and those favoring local incentive. The former are outraged that the quality of education could be affected by differing enthusiasm for education from district to district. On the other hand, the latter see in local decision a source of health, variety, and citizen involvement plus an insurance against the statewide mediocrity risked by centralization. In any case, one's policy preference in this regard should not be confounded with his view of the Constitution. Even centralizers should prefer *Proposition One* if the Court sees preservation of local choice as the condition of its intervention. Continued local choice, liberated from the effects of wealth variations, is a more attractive prospect than no reform at all; besides, who can say the legislatures will not be persuaded to centralize once the old order is invalidated under *Proposition One?*

Power Equalizing: Districts . However, our own preference for *Proposition One* is not purely tactical. The use of relatively small units to determine important aspects of educational policy seems to us plausible; and it is quite feasible to make existing school districts substantially equal in their power to raise money for education. Even retaining the property tax as the local source (we would prefer a local income tax), such parity of power could be managed through a combination of state subsidies, redistricting, and other devices. The resulting system is called "power equalizing." Suppose, for example, the legislature provided that all districts might tax local real property at a rate of from 1 percent to 3 percent and that the district's own choice of specific tax level within that range would, in accord with a relation set by law, fix the district's spending level. The amount per pupil actually raised by the tax would be irrelevant. What would count is how hard the district chose to tax itself, not the wealth on which the tax was levied. The relation might be as simple as the following table:

Locally Chosen Tax	*Permitted Spending Per Student*
1% (minimum permitted)	$ 500
1.1%	550
2%	1,000
3% (maximum permitted)	1,500

Mechanically it might operate in a variety of ways. For example, if a district taxing at 2 percent raised $800 per student, it would be subsidized $200 per student from general sources by the state. If a district were wealthier and raised

$1,200 at 2 percent. $200 of this would be redistributed as part of the subsidy for poorer districts. Alternatively all proceeds of the locally chosen taxes could be paid into a state pool with all disbursements made from that pool based solely upon the local tax rate.

Power equalizing formulas can be adjusted to take into account variations in the cost of educational goods and services from place to place. They can also be tuned to reflect subtler economic factors such as municipal overburden and educational considerations such as the "needs" of disadvantaged (or, for that matter, gifted) students. In short, power equalizing formulas provide the base for any true "compensatory" scheme.

Power equalizing also is an answer to the central dilemma of the community control movement: how can an urban enclave like Ocean Hill-Brownsville achieve political autonomy without accepting economic prostration? Every district, irrespective of size or wealth, through power equalizing can be rendered both independent and equal in the power to educate its children. The poverty of a neighborhood's tax resources cannot by itself justify continued subordination to a larger school district. If the state desires it, Ocean Hill-Brownsville can be economically as unfettered as Scarsdale.

Power Equalizing: Families Some have suggested that power equalizing can satisfy both the centralist drive for equality and the objectives of local government by a further extension to the family level. Imagine, for example, that each family with school-age children is a small school district that has been equalized in its power to tax itself and to spend for education. All parents would choose among schools, each of which operates at a set level of cost per pupil, say $500, $800, $1,100, and $1,400. The school would receive its income (for secular instruction) from the state; it could charge no further tuition. The family's choice of a school cost level would fix the rate of a special tax upon its own income. The tax rates also would vary by family income class with the aim of equalizing for all families the economic sacrifice required to attend any school at a given spending level. For example, a welfare mother might pay $15 in tax for all her children to attend a $500 school; for that same school the tax price to a middle-class family might approach the full $500 cost, while the price to a rich family would exceed the full cost. A $1,400 school might cost these same three families $100, $1,000, and $2,000 respectively.

Schools in such a system could be all public, all private, or mixed. The constraints on curriculum could be few or many, but any substantial limitation would frustrate at least some of the purposes for trying such a system in the first place. One important object is, after all, for the first time to give a true choice to all families—including the poor. Through family choice, it is argued,

competition and experimentation would be stimulated and variety and quality thereby enhanced. Also better matching of schools and children would be effected by the judgments of parents and children than by an impersonal attendance boundary for the neighborhood or the judgment of an expert. In providing choice to the parent, an answer also would be given to the other dilemma in the community control movement: how to maintain a true "community" while respecting the interests of dissenting minorities. In a family based system, the community would be transformed from an artificial and inescapable community of geography to a community of interests, one freely chosen and freely abandoned.

Obviously the details of such a system would have to be carefully tailored if such ancillary policies as racial integration, fair competition, minimum standards, and job security for teachers were to be satisfied. The model "Family Choice in Education Act" which has been drafted to express these policies comprises hundreds of provisions. It encourages private schools with guaranteed loans but protects public schools against unfair competition by limiting the capitalization of private schools. For similar reasons it disallows contributions either from interested sources or for ideological objectives. The model act also puts pupil admission to a school on a random basis, thereby maximizing racial and social integration. To assist the choices of schools by parents, an elaborate system of information and counseling would be provided. Of course, free and adequate transport would have to be made available. In all respects, the complex provisions of the model act strive to assure the fullest measure of independent action and equality of opportunity for schools, parents, and pupils.

However, an interesting division recently has emerged between what may be viewed as the centralists and decentralists among family choice proponents. The schism is illustrated by a proposal for educational vouchers outlined by the Center for the Study of Public Policy at Cambridge, a proposal that conceivably will be supported by the Office of Economic Opportunity in a series of experiments. (*Teachers College Record*, February, 1971.) Though reflecting some of the aims of the model family choice act, the CSPP proposal specifically rejects it and offers in its place a striking contrast. Rather than provide equal access for all to schools of different quality, the CSPP model deliberately tends to equalize all schools in the voucher system at a level of quality to be centrally, not parentally, determined. This uniformity would be achieved by giving more money to schools with a higher population of disadvantaged children. It would not allow for variation in spending in accord with the tax effort families are willing to make for their education. Effectively, parents who are poor would be denied the opportunity to aspire to an education which is not merely

different in style but qualitatively superior to the governmentally mandated minimum.

The CSPP model is the expression of a plausible—if, to us, mistaken—value choice in education. It is probably compatible with the constitutional test we have offered, since (depending upon its eventual details) it divorces quality in public education from variations in wealth. Along with power equalizing systems—both district and family—it nicely illustrates the boundless possibilities for experiment and change in the structure of American education. If the old order survives another century, it will not be for want of alternative models.

FROM SARAH C. CAREY

SCHOOL FINANCE CASES FILED AND IN PROCESS

Case caption	State	Date filed	Court	Claim and relief
Serrano Jr. et al. v. Priest et al.	California	June 1968	California Supreme Court	Plaintiffs claim that California's system of education finance violates the equal-protection clause of State and Federal Constitutions, and therefore ask the court to order the defendants to restructure the finance scheme so as to provide equal educational opportunities for all children in the State. The case was dismissed in the lower State court of California without any other opinion than a citation to McInnis v. Ogilvie. California's intermediate State court of appeals affirmed the dismissal, but on appeal to the California Supreme Court the earlier decisions were reversed. As of Sept. 21, the defendants had not announced their intention to appeal.
Allen et al. v. County of Otero, et al.	Colorado	September 1971	State District Court for the County of Otero, State of Colorado.	Plaintiffs seek a declaration that the Colorado scheme of school finance, through its heavy reliance on local property tax, violates their rights under the 14th amendment to the U.S. Constitution. Plaintiffs further seek to enjoin the administration of local property taxes after Jan. 1, 1973.
Blase et al. v. Illinois et al.	Illinois	do	State Circuit Court of Cook County, Ill.	Plaintiffs seek a court declaration that the Illinois State financing scheme violates the Illinois and U.S. Constitution in that it is unequal and in that it fails to provide each student a sum of money necessary to meet minimum standards of education.
The Board of Education of The School District of the City of Detroit et al. v. The State of Michigan and Allison Green, its Treasurer.	Michigan	February 1969	U.S. District Court, Eastern District of Michigan	Plaintiffs allege that the finance system fails to allot the school districts in which they reside educational resources and educational opportunities substantially equal to those provided in many other school districts. Plaintiffs allege that the system is constitutionally defective because of the failure to relate to the district variations in educational needs, quality of existing educational facilities, and levels of educational costs and expenses. Plaintiffs ask that execution of the "State Aid Act" be enjoined, and that State funds be reapportioned so as to provide substantially equal education opportunities for all children in the State. Suit was dismissed for lack of prosecution, but it will be amended and refiled shortly.

SCHOOL FINANCE CASES FILED AND IN PROCESS—Continued

Case caption	State	Date filed	Court	Claim and relief
Robinson et al. v. Cahill, et al.	New Jersey	February 1970	Lower State court of New Jersey	Plaintiffs charge in a 13-count complaint that the State's system for financing public education is unconstitutional; and ask the court, among other things, to void the current educational finance and to order the defendants to restructure the scheme in a manner not violative of the U.S. and New Jersey Constitutions.
Fort Worth Independent School District et al. v. Dr. J. W. Edgar, Commissioner of Education of the State of Texas et al.	Texas	do	U.S. District Court, Northern District of Texas	Plaintiffs charge that the operation of the State's foundation plan is illegally and unconstitutionally exacting the amount of the local contribution from plaintiff school districts. The State's minimum foundation statute requires that the local contribution be calculated according to its taxpaying ability, and plaintiffs claim that their contribution has not been calculated in that manner, but rather, in a manner that is not uniform and which discriminates against them and which, therefore, violates both their rights to equal protection and to due process under the U.S. Constitution and their rights under the fundamental laws and constitution of Texas. Plaintiffs ask the court to declare the manner by which local taxpaying ability is determined to be unconstitutional and to order the defendants to calculate uniformly local contributions to minimum foundation grants on the basis of each local district's taxpaying ability. Defendants' motion to dismiss was denied, and the parties are awaiting a full hearing on the merits.
Guerra et al. v. Smith, et al.	do	May 1969	U.S. District Court, Western District of Texas	Plaintiffs seek a declaration of unconstitutionality for the Texas school financing scheme, claiming that it violates their 14th amendment rights in that it allows them less funds, for more tax effort, than other Texas school districts. The complaint was dismissed on July 20, 1971, citing McInnis v. Oglivie, and the plaintiffs have noticed an appeal to the U.S. Court of Appeals for the Fifth Circuit.

Rodriguez, et al. v. San Antonio Independent School District, et al.	do	January 1969	do	Plaintiffs seek to enjoin the operation of the Texas' State-aid formula, as a violation of the 14th amendment because it enables school districts to spend widely disparate amounts on each child's education and because these disparities are due to widely varying per capita property values in each district. The case is before a three-judge court. A motion to dismiss was denied in 1969, and, since the expiration of a court-allowed grace period for legislative reform, the case is now being prepared for a final trial hearing.
Bellow, et al. v. The State of Wisconsin et al	Wisconsin	June 1969	Dane County circuit court	Plaintiffs allege that as a result of the delegation of the power to tax to various State subdivisions created without uniformity of tax base, and the manner of appropriation to the various divisions of sums of money in the State school fund, substantial disparities exist in the quality ond extent of public education available in the several school districts of the State. Plaintiffs ask that the legislature be given reasonable time to reapportion school districts and that the court make appropriate apportionment of State funds if the legislature fails to act.

Note: School finance suits about to be filed—The lawyers' committee staff has been in continual contact with attorneys throughout the country who have expressed interest in filing "Serrano-type" suits. Two of these attorneys will definitely be filing before mid-October. (Their States are Maryland and Oregon.) Other attorneys say they may file before yearend. (Their States are Arizona, Connecticut Florida Georgia, Massachusetts, Minnesota, Missouri, New York, Ohio, and South Carolina.)

A MODEL COMPLAINT FOR USE IN STATE COURTS FOR ATTACK UPON WEALTH DISCRIMINATION IN PUBLIC EDUCATION

No. -------- Suit to secure right of plaintiff classes under United States Constitution and laws of -------- that quality of public education not be a function of wealth.

---------------- COURT OF THE STATE OF ----------------

FOR THE COUNTY OF ----------------

JOHN SERRANO, JR., individually; JOHN ANTHONY SERRANO, by JOHN SERRANO, JR., his guardian ad litem; LILLIAN ACUNA ACEVES, individually; BILLY ACEVES, by LILLIAN ACUNA ACEVES, his guardian ad litem; . . . .

PLAINTIFFS [1]

v.

State of ------------; ------------, Attorney General of the State of ----------; ------------, Treasurer of the State of ------------; ------------, Superintendent of Public Instruction of the State of ------------; ------------, Name, ------------ . . . . . , members of the Board of Education of the State of ------------; ------------ Controller of the State of ------------; ------------, Tax Collector, County of ------------; ------------, Treasurer, County of ------------; ------------, Superintendent of Schools of the County of ------------; Name, Superintendent of ------------ Unified School District; Name, Superintendent of ---------- High School District; --------, Superintendent of ---------- Elementary School District; and DOES,

DEFENDANTS [2]

Plaintiffs above named complain of defendants above named, and each of them, as follows: [3]

Plaintiffs, JOHN ANTHONY SERRANO, BILLY ACEVES, . . . (hereinafter collectively called "Plaintiff Children"), are citizens of the State of ------------ and residents of the Counties of ------------, ------------, and ------------, and are enrolled in ----------------------

b. *They should be from low income families.* [Personal poverty is not required by the *Serrano* theory—the relative poverty of the district was held sufficient to offend the Constitution. However, other courts conceivably could confine the right to the poor child who is the most adversely affected by his district's poverty.]

In addition it is important to have such plaintiffs from *each class of district* operating in the state system. For example, California has three kinds of districts—elementary, high school, and unified. Such a system was assumed in drafting the model complaint, but states differ in the number of classifications.

It is not necessary that the plaintiffs be minority children. The theory of *Serrano* has nothing to do with race. Any such allegations risk both confusion and difficult questions of proof. Purists would actually prefer white plaintiffs.

Plaintiff Children are all minors; on [date], plaintiffs, JOHN SERRANO, JR., LILLIAN ACUNA ACEVES, . . . , respectfully, were by order duly made by the above-entitled court appointed guardians ad litem of Plaintiff Children, for the purpose of representing each of said minors in this action.

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[1] Ideally all plaintiff children should share two characteristics: a. *They should reside in relatively low-wealth districts with relatively high tax rates.*

[2] The county and district officials to be named should be chosen from the wealthiest counties and districts in each class or at least among the wealthiest counties and districts with substantial population.

[3] The cause of action has been deliberately drafted to confine the theory to the holding in *Serrano* that the quality of public education may not be a function of wealth. The only wrong claimed is wealth discrimination, or—put another way—a denial of plaintiff's right to "fiscal neutrality."

There are, of course, other ways that have been suggested for defining the injury. The *McInnis* complaint, for example, argued for spending according to need of the student. Even the original *Serrano* complaint contained some such language. In view of the fate of *McInnis* and the court's opinion in *Serrano*, however, any such addition seems very risky. The drafters also decided to exclude any claim of a right to geographical uniformity in spending, though some no doubt would feel such a right makes sense and has a chance in litigation.

II

Plaintiff Children are all from families whose income falls below the federal poverty standard—namely $______________. Their ages, addresses, and schools attended are as follows:[4]

JOHN ANTHONY SERRANO is 8 years old, and attends the ______________ Elementary School, in the ______________ School District; he resides with his father, JOHN SERRANO, Jr., who has been appointed guardian ad litem herein, at ______________ Street, ______________, ______________. BILLY ACEVES is 17 years old, and attends the ______________ High School, in the ______________ Unified School District; he resides with his mother, LILLIAN ACUNA ACEVES, who has been appointed guardian ad litem herein, at ____________ Avenue, ____________, ______________. . . .

III

Plaintiff parents representing their children all have incomes below the federal poverty standard—namely ______________.[5] Their addresses are as follows:

Plaintiffs, JOHN SERRANO, Jr., ______________ Street, ______________, ______________; LILLIAN ACUNA ACEVES, ______________ Avenue, ______________, ______________; . . . . , (hereinafter collectively called "Plaintiff Parents"), are all citizens of the State of ______________ who reside in the Counties of ______________, ______________, and ______________, respectively, and are the parents and guardians of the Plaintiff Children.

IV

This suit is a class action brought by the plaintiffs on their own behalf and on behalf of others similarly situated. The three classes represented by the plaintiffs consist of the following persons:[6]

a. All children residing in the State ______________ who are attending the free public elementary and secondary schools provided by the State of ______, except children in those three school districts—elementary, high school, and unified, respectively—enjoying the greatest wealth per pupil which is subject to taxation by local authority for purposes of elementary and secondary education.

b. All children in the State of ______________ who are attending the free public elementary and secondary schools provided by the State of __________, whose family resources are so limited as to require them to attend public schools, except children in those school districts—elementary, high school, and unified, respectively—enjoying the greatest wealth per pupil which is subject to taxation by local authority for purposes of elementary and secondary education.

c. Parents and guardians of all children in classes (a) and (b).[7]

V

These classes are so numerous in membership that joinder of all their members is impractical. There are question of law and fact common to the members of each class. The claims of the representative plaintiffs are typical of the claims

[4] Again, *Serrano* did not require personal poverty, and little is risked if some middle class plaintiffs are included so long as the bulk are poor. However, if a court were to confine the right to poor children it could be important to have at least one poor plaintiff from each class of school district. (See F.N. No. 1.)

The general formula "federal poverty standard" has no magic, of course. Indeed, it may be preferable either to be more explicit by citing a particular federal standard (e.g. Title I of the ESEA or less explicit by simply calling the plaintiffs poor.

[5] See F.N. 4, *supra* and F.N. 7, *infra*.

[6] If all the children plaintiffs are from poor families, they will fall into both classes No. a and No. b. That is, class No. b is the class of *poor* children living in relatively poor districts; class No. a is *all* children living in relatively poor districts. The reason for drawing the distinction at all is to permit the court to focus on *personal* poverty if it does not want to accept the *Serrano* concept that *district* wealth variation itself is invalid as a basis for spending differences. The narrower theory would not seem to limit the practical effect of the decision. The state could hardly fashion a wealth-neutral system operating separately for poor families.

[7] The parental-class role is merely representative. The right is the child's right. The *Serrano* opinion vaguely suggests the possibility of a separate right for the parent, but, even if such right existed, it would add nothing. Hence it has been left out as merely distracting. It is unthinkable that a court recognizing such a right would refuse to recognize the child's right.

of each class, and said representative plaintiffs will fairly and adequately protect and represent the interests of each class. The defendants have acted and have refused to act on grounds generally applicable to each class, and the relief demanded is appropriate for each class as a whole.

VI[8]

Defendants ____________, Tax Collector, County of ____________; __________, Treasurer, County of ____________; ______________, Superintendent of Schools, County of ____________; ____________, Superintendent of ____________ Unified School District; ______________, Superintendent of ______________ High School District; and ____________, Superintendent of ____________ Elementary School District are each sued both in their official capacities and as representatives of the Treasurer, Tax Collector, and School Superintendent of each of the counties and unified, high school and elementary districts in the State of ____________. The treasurers, tax collectors, and superintendents of public schools of the counties and school districts of the State of ___________ constitute a class so numerous that joinder of all its members is impractical.

VII

There are questions of law and fact common to the members of the defendant class, and the representative defendants will fairly and adequately represent the interests of the class.

VIII[9]

Defendant ______________ is Attorney General of the State of ____________, and this action is brought against him in his official capacity as Attorney General.

Defendant, __________, is the Treasurer of the State __________, and this action is brought against her in her official capacity as Treasurer.

Defendant, __________, is Superintendent of Public Instruction of the State of ______________, and this action is brought against him in his official capacity as Superintendent of Public Instruction.

Defendants __________, __________, __________, __________, are members of the State Board of Education of the State of __________, and this action is brought against each of them in his or her official capacity as member of such board.

Defendant, __________, is the Controller of the State of __________, and this action is brought against him in his official capacity as Controller.

IX[10]

The true names and capacities, whether individual, corporate, associate, agent, or otherwise, of defendants named herein as DOES, are unknown to plaintiffs who therefore sue said defendants by such fictitious names, and plaintiffs will amend this complaint to show their true names and capacities when the same have been ascertained.

X[11]

The State of ______________ (sometimes herein "the State") under the provisions of Article ______________ of the ______________ Constitution, is responsible for [maintaining a system of free public elementary and secondary schools][12]

[8] This set of defendants is composed of officials of various *local* governments affecting schools. Thus, they are sued as representative of that class.
Note that the class includes officials from all counties and districts including poor ones. This is not inconsistent with the theory. The officials in poor districts are presumably cooperating with the administration of an unconstitutonal system and are therefore appropriate defendants.

[9] These are the individuals (non-class) defendants holding Statewide office.

[10] It is not clear what function the fictional defendants serve, but an excess of caution here serves no harm.

[11] The progression of ideas in paragraphs X–XIV is this: The State has a duty; the duty is to maintain fiscal neutrality in education; its financing system violates this duty; this violation hurts the plaintiffs; this injury to plantiffs is unnecessary to satisfy the interests of the State.

[12] The words in brackets may not be the appropriate language for any particular State. The point here is merely to make quick reference to the State constitution or statutes setting the pattern of the system. In some States there will be no constitutional provision; that is, the system may be based purely upon legislative policy.
The point here is not to allege State action; as to that, there is really no issue. In fact to allude to State action as such might only confuse the matter by suggesting doubt on the question.

(hereinafter the "school system") for all of the children of the state, including Plaintiff children.

XI

In maintaining the school system, ------------ is forbidden by the Equal Protection clause of the Fourteenth Amendment of the law and the Constitution of the State of -------------- (including Article ------------, Sections ---------- and --------------, and . . . of said Constitution) to make the dollar expenditure [13] for the publicly financed education of any child a function of the wealth of the child's family, his school district, or any entity other than the State of -------------- as a whole.

XII [14]

Under the provisions of its [Constitution and ?] [15] statutes the State has established a financing system for its public schools (hereinafter entitled "the financing system") which makes the expenditure [16] for every child's public education a function of the taxable wealth per pupil of the school district in which he resides. Under the financing system, school districts created by the State within each of three classes—unified, high school, and elementary—have widely varying amounts of taxable wealth per pupil. As a consequence of such differences in wealth among state created districts, and because of the financing system as a whole, the school districts within each class have widely variant expenditures [16] per pupil of similar age and grade. Examples of the relation between district wealth, taxing, and expenditure are set forth in Exhibit "A" attached hereto and incorporated herein by reference. A more detailed analysis of the structural relation between district wealth and district spending is set forth in Exhibit "B" attached hereto and incorporated herein by reference.

XIII

The plaintiffs are suffering serious inequality and injury in regard to a fundamental interest—the interest in education—by virtue of state created variations in per pupil expenditure upon their public education caused by variations in school district wealth and the financing system.

XIV

The financing system serves no compelling interest of the State which cannot be served as well or better by other financing structures which do not make the amount of spending for a child's public education a function of wealth variations. Many such alternative systems are available for adoption by the State.[17]

XV

The financing system violates both the Equal Protection clause of the 14th Amendment and the Constitution of the State of ------------------ insofar as it renders expenditure for plaintiffs' public education a function of the wealth of the school district in which each plaintiff resides.

Wherefore plaintiffs respectfully pray:

---

[13] Note that the complaint refers only to differences in spending as the measure of injury. The term "quality" of education was used in the first draft but was eliminated in favor of the more objective money standard. Of course, it is implied that dollars spent are related to quality. It is not likely that the court will put the plaintiffs to proof on this question, but it is possible. There is in the *Serrano* opinion at least some ambiguity in this regard. If the cost/quality relation were a question of fact, presumably it is essentially an issue for expert opinion.

[14] The nature of the State financing system must be described, but it seems unduly cumbersome to try to do so in the body of the complaint. All that matters is that wealth variations affect spending. Since this is everywhere the result of the use of districts of varying wealth, this simple allegation seems adequate and easier to follow. However, more detailed analysis should be available as in Exhibit "B."

[15] The State constitution itself may or may not mandate a system which is influenced by wealth variations. See F.N. 12, *supra*.

[16] The complaint does not differentiate between current and capital expenditures and thereby is intended to include both. A note to "Exhibit A" is intended to confirm this. In fact, State systems in general make the capital costs of districts the most obvious kind of fiscal discrimination, since very little State aid, if any, goes for such costs.

[17] Whether a sample of such systems should be described in an exhibit to the complaint is a matter of judgment. As an example of how such alternatives might be set out a separate "Appendix" is attached. It is reproduced from an amicus brief in the *Serrano* case.

I

That the Court declare the respective rights and duties of plaintiffs and defendants and enter judgment declaring the plaintiffs have been denied the equal protection of the laws of the United States and ________________________ by the financing system.

II

That defendants, and each of them, be ordered to refrain from operating the present financing system or any system which makes expenditure upon the public education of any child a function of wealth except insofar and so long as absolutely necessary to effect an orderly transition to a valid system for financing schools.

III

That the Court retain jurisdiction in this action, affording defendants and the Legislature of the State of ---------- a reasonable time in which to take all steps reasonably feasible to make the school system comply with applicable law, and, specifically, to restructure the financing scheme so as to assure that expenditure for the public education of any child no longer be a function of the wealth of school districts, parents, or any entity other than the State as a whole, as required by the equal protection clause of the Fourteenth Amendment to the United States Constitution and the fundamental law and Constitution of ----------, and should defendants and the Legislature fail to so restructure the financing system within such reasonable time, that this Court enter an appropriate Order enjoining the operation of the system insofar as that operation makes spending a function of wealth.

IV

That plaintiffs be granted such other and further relief as may be proper.

Respectfully submitted,

HORACE MANN,
Attorney for Plaintiffs.

EXHIBIT "A"

Selected data respecting (1) *Assessed Valuation Per Unit of Average Daily Attendance;*[18] (2) *Average Daily Attendance;* (3) *School Tax Rate;* (4) *Expenditure Per Pupil.* All districts in the following tables have in excess of 500 students in average daily attendance. Statistics are from the official reports of the Department of Public Instruction of the State of ------------- (1969-70). Expenditure may [or does not] include federal moneys.[19] Capital expenditures are not included. As to these the plaintiffs' objection is a fortiori since the state provides no aid whatsoever for capital expenses of the districts.[20]

District	ADA	A.V.P.P.	Total school tax rate	Expenditure per pupil
UNIFIED DISTRICTS				
Big Tree	1,250	$100,000	1.3	$1,700
Little Tree	3,600	50,000	2.0	1,350
Sick Tree	1,100	4,000	6.00	500

EXHIBIT "B"

An analysis of the school financing system of ------------ and the manner in which that system links spending per child to district wealth

[18] States differ in their standards for measuring the relevant student population. Some use average daily membership (ADM) or enrollment (ADE).

[19] Probably the Federal moneys should be excluded on the ground that their relevance to the State's obligation is entirely unsettled and obscure. See Goldstein, Review of Private Wealth and Public Education, 59 CAL. L. R. 302 (1971).

[20] See F.N. 10, *supra*, and F.N. 21, *infra*.

[This analysis should be undertaken with great care and, if possible, with the aid of competent school economists. The following is a sample analysis of the California system. It was presented to the California Supreme Court in one of the briefs in *Serrano*. It suggests one form of analysis which may be useful. Of course, each state will be unique to some extent. For a discussion of the basic method of analysis on which the following presentation was based see Coons, Clune, and Sugarman, *Private Wealth and Public Education*, Part I (Harvard Press, 1970). The Lawyers' Committee has a list of experts who have volunteered to assist on a time-available basis.[11]]

(Here, for the model, the Urban Coalition brief pp. 4–21 will be reproduced.)

APPENDIX

7. A WIDE VARIETY OF FISCALLY NEUTRAL SYSTEMS WOULD SATISFY THE STATE'S INTEREST IN DECENTRALIZED DECISIONMAKING

[From *Serrano* amicus brief]

California may have an interest in maintaining a decentralized system of school financing. It may wish to permit school districts to express different commitments to education. This is an interest which is not only legitimate, but which deserves respect, whether or not it qualifies as "compelling" under *Shapiro* v. *Thompson*, 394 U.S. 618 (1969). Amici have shown in the previous section that fiscal neutrality is compatible in theory with either centralization or decentralization of funding decisions. This will now be demonstrated with several examples of fiscally-neutral systems. These are no more than a few of the numerous systems that the principle would permit; note that there is *no* system that fiscal neutrality would *require*.

This showing is important because of the constitutional significance of "less onerous alternatives"—other forms of regulation which will serve the interest of the State without burdening the fundamental interest asserted by the individual. *Williams* v. *Illinois*, 399 U.S. 235 (1970). This Court has stated the proper inquiry to be whether the regulation is:

> ". . . necessary to promote the state's legitimate interest because there existed alternative and less intrusive means whereby the state could further its interest." *In re Antazo*, 3 C.3d at 114.

Answering the inquiry in the *Antazo* case the Court declared:

> "Because the state has available to it these alternative methods of collecting fines, we cannot conclude that imprisonment of indigents is necessary to promote this state interest." *Ibid.*

We turn then to illustrate the wealth of alternatives available to the legislature.

DECENTRALIZED SYSTEMS WHICH RESPECT THE RIGHTS TO FISCAL NEUTRALITY

At least two general styles of decentralized systems are possible, either of which, alone or in combination with the other, would eliminate the effects of variations in wealth while retaining—indeed increasing—local fiscal control.

District Power Equalizing. If the legislature wished to emphasize local government even more than it does now, it could easily equalize the revenue-raising power of the *existing* school districts simply by eliminating wealth from the formula which determines a district's per pupil expenditure. Instead of the educational offering being a function of both district wealth and district tax effort, as now is the case, it would become a function of *effort alone*. The easiest way to perceive this is to suppose that the legislature has adopted a table which specifies how much on the average per pupil each district will be permitted to spend for each level of tax effort it makes against local wealth (preferably income, but, more realistically—considering tradition and existing patterns—real property). Such a table for elementary districts might look like this:

[11] Some analysis of the effect of wealth variation upon capital expenditure should be added. This would be relatively simple in most States since there is no State aid to alter the perfect relation of spending to district wealth.

District tax rate on local property:	Permissible district per pupil expenditure
10 mills (minimum rate permitted)	$500
11	550
12	600
13	650
14	700
29	1,450
30 mills	1,500

Irrespective of the amount of the local collections, the district would be permitted to spend per pupil that amount—and only that amount—fixed by statute for the tax rate *locally chosen*. Rich districts and poor districts taxing at 12 mills would provide a $600 education. Poor districts and rich districts taxing at 30 mills would provide a $1,500 education. The sole factor determining what a district could spend would be the sacrifice in property tax it was willing to make.

Such a system might, of course, involve the redistribution of excess local collections in rich districts and the State's subvention of insufficient collections in poor districts. If desired, redistribution of excess collections could be minimized by either or both of two techniques. First, the legislature could redraw a relatively small number of district boundaries and thereby eliminate freakishly rich enclaves—say those with wealth more than four times the state average. Second, industrial and commercial property could be removed from the district base and taxed by the State at a uniform statewide rate, eliminating its role as the principal cause of extreme district wealth. By reducing the spectrum of district wealth per pupil in either manner, or both, the State could easily assure that no district would raise more locally than it could spend.

The magnitude of subventions to poorer districts would depend largely on the extent to which the legislature wishes to pay for the total statewide cost of education out of statewide sources; this in turn would be affected by the extent to which it wishes to stimulate district effort, using State money as an incentive. If the State were willing to permit the richest district to retain all that it collected locally, it would assume centrally a more substantial portion of the total education budget in order to render the poorest district equal to the richest in its ability to meet the costs of education. The formulas for controlling total cost and the respective State and local shares are infinitely variable, but the effect in any case is to make all districts equal in their *power* to raise dollars for education. The variations from district to district in dollars per pupil spent upon education would thus be a function of local interest in public education. Power equalizing would not guarantee equal dollars per pupil—a fatuous and counterproductive goal. It would merely deny the "right" to have a better school for *less* effort and, thereby, would maximize the incentive for political effort at the local level.

Family Choice Systems. If the legislature wished to emphasize individual choice, it could apply the power equalizing principle to a different unit. The family instead of the school district could be given the power to decide its own desired level of effort for education. The wealth against which the tax effort would be made would be the family income per child. For each level of self-chosen tax effort permitted by the particular system, a specific level of spending would be allowed the family for all its children. Each child would be given a voucher in the amount fixed by the statutory formula with which to purchase education. Given appropriate adjustment for marginal utility, cost of living, etc., equal tax efforts would give families of varying wealth equal access to schools of the same per pupil expenditure.

The State would decide how the necessary range of schools would be provided. If it wished, it could permit both public and private schools to respond to the variety of choices made by families; the resulting system would resemble a market in which public and private educators could meet a variety of demands for quality by spending varying average amounts per pupil. All participating schools (including private schools, if included in the system) would have to accept the voucher as the sole measure of tuition. Otherwise wealth determinants of quality would be reintroduced by the option for parents of varying wealth to supplement the state stipend. On the other hand, private schools not accepting the voucher could charge what they pleased, as they do today. Obviously, many refinements, complexities, and objections are neglected here, but at the least it

can be seen that even very "conservative" experiments in school finance can satisfy the constitutional standard proposed. A number of such schemes are outlined in *Education Vouchers* (Center for the Study of Public Policy, Cambridge, 1970).

CENTRALIZED SYSTEM WHICH RESPECT THE RIGHT TO FISCAL NEUTRALITY

It is difficult to imagine any system of public education financed entirely by a centralized State system of taxation and distribution which would infringe the right to fiscal neutrality. Furthermore, centralized financing would not necessarily imply centralized decision-making concerning spending. To whatever degree it wishes, the State could emphasize local choice in spending the dollars provided by the State.